10–8–98
Vol. 63 No. 195
Pages 54027–54340

Federal Register

Thursday
October 8, 1998

Briefings on how to use the Federal Register
For information on a briefing in Washington, D.C., see announcement on the inside cover of this issue.

Now Available Online via
GPO Access

Free online access to the official editions of the *Federal Register, the Code of Federal Regulations* and other Federal Register publications is available on *GPO Access*, a service of the U.S. Government Printing Office at:

http://www.access.gpo.gov/nara/index.html

For additional information on ***GPO Access*** products, services and access methods, see page II or contact the *GPO Access* User Support Team via:

★ Phone: toll-free: 1-888-293-6498

★ Email: gpoaccess@gpo.gov

Attention: Federal Agencies

Plain Language Tools Are Now Available

The Office of the Federal Register offers Plain Language Tools on its Website to help you comply with the President's Memorandum of June 1, 1998—Plain Language in Government Writing (63 FR 31883, June 10, 1998). Our address is: http://www.nara.gov/fedreg

For more in-depth guidance on the elements of plain language, read ''Writing User-Friendly Documents'' on the National Partnership for Reinventing Government (NPR) Website at: http://www.plainlanguage.gov

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register,** Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 63 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC
Subscriptions:
Paper or fiche **202–512–1800**
Assistance with public subscriptions **512–1806**
General online information 202–512–1530; 1–888–293–6498
Single copies/back copies:
Paper or fiche **512–1800**
Assistance with public single copies **512–1803**
FEDERAL AGENCIES
Subscriptions:
Paper or fiche **523–5243**
Assistance with Federal agency subscriptions **523–5243**

NOW AVAILABLE ONLINE

The October 1998 Office of the Federal Register Document Drafting Handbook

Free, easy online access to the newly revised October 1998 Office of the Federal Register Document Drafting Handbook (DDH) is now available at:

http://www.nara.gov/draftres.html

This handbook helps Federal agencies to prepare documents for publication in the **Federal Register.**

For additional information on access, contact the Office of the Federal Register's Technical Support Staff.

Phone: 202–523–3447

E-mail: info@fedreg.nara.gov

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: October 13, 1998 at 9:00 a.m.

WHERE: Office of the Federal Register
Conference Room,
800 North Capitol Street, N.W.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 63, No. 195

Thursday, October 8, 1998

Separate Parts In This Issue

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
Vol. 63, No. 195
Thursday, October 8, 1998

Presidential Documents

Title 3—

The President

Proclamation 7132 of October 5, 1998

Child Health Day, 1998

By the President of the United States of America

A Proclamation

As caring parents and citizens, we must do all we can to ensure that our children, our Nation's greatest resource, lead safe and healthy lives. Today, thanks to scientific breakthroughs and increased public awareness, we have the ability to prevent many of the childhood illnesses and disorders of the past. We have raised immunization rates to an all-time high, ensured that prescription drugs will be adequately tested for children, conducted research to help protect children from environmental health risks, and established protections so that mothers can stay in hospitals with their newborns until they and their doctors decide they are ready to leave. Although we can be heartened by these important achievements, we must do more if we are to overcome the many health challenges our children still face.

Recent studies show that children without health insurance are more likely to be sick as newborns, less likely to be immunized, and less likely to receive treatment for recurring illnesses. One of the great accomplishments of my Administration has been the creation of the Children's Health Insurance Program (CHIP), which I called for in my 1997 State of the Union and signed into law just a year ago. CHIP provides $24 billion to help States offer affordable health insurance to children in eligible working families—the single largest investment in children's health since the passage of Medicaid in 1965. CHIP will provide health care coverage, including prescription drugs, and vision, hearing, and mental health services, to as many as 5 million uninsured children; and in its first year, nearly four out of five States already are participating in CHIP. We are also working hard to identify and enroll in Medicaid the more than 4 million children who are currently eligible to receive health care through that program but are not enrolled. The challenge before us now is to realize the promise of CHIP and Medicaid by reaching out to families to inform them of their options for health care coverage.

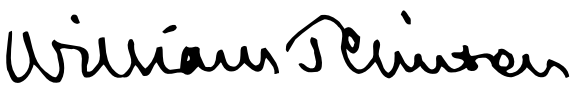
Due to recent breakthroughs in medical knowledge, we know that the decisions we make even before our children are born can have a significant impact on their future health. That is why we are committed to fighting, among other afflictions, the tragic consequences of Fetal Alcohol Syndrome. In this country, thousands of infants are born each year suffering from the physical and mental effects of this disorder. Because its effects are devastating, causing permanent damage, the simplest and best measure that expectant mothers can take for the safety of their babies is to abstain from drinking alcohol throughout their pregnancies.

As part of my Administration's ongoing efforts to protect our children from the effects of alcohol and other substance abuse, Secretary of Health and Human Services Donna Shalala recently announced a new campaign, ''Your Time—Their Future,'' to recruit adults to help children and adolescents develop healthy and useful skills and interests. Research shows that the guidance and example of caring adults can play an important part in helping young people resist the attraction of alcohol and other harmful or illegal substances.

To acknowledge the importance of our children's health, the Congress, by joint resolution approved May 18, 1928, as amended (36 U.S.C. 143), has called for the designation of the first Monday in October as ''Child Health Day'' and has requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim Monday, October 5, 1998, as Child Health Day. I call upon families, schools, communities, and governments to dedicate themselves to protecting the health and well-being of all our children.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of October, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.



[FR Doc. 98–27271
Filed 10–7–98; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7133 of October 5, 1998

German-American Day, 1998

By the President of the United States of America

A Proclamation

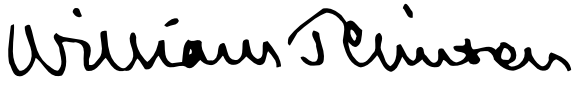
From the time our republic was born, German Americans have enriched our national life and culture. Many, seeking religious freedom, first settled in and around Philadelphia more than 300 years ago; and to this day, one of the largest neighborhoods in that city is called Germantown. Throughout the colonial period, more Germans arrived on these shores and made their homes throughout the Thirteen Colonies. Today, almost a quarter of the American people can trace their roots back to Germany.

German Americans have had an important and lasting impact not only on the growth of our Nation, but also on the formation of many of our deepest values. As skilled and industrious farmers, German Americans have shared their love for the land and a strong sense of family and community. With a deep respect for education and the arts, they have broadened the cultural life of the communities in which they live. And, from their earliest days in this country, Germans and German Americans have revered freedom, as epitomized by the service of General Friedrich von Steuben during America's struggle for independence and by the dedication of the entirely German American Provost Corps which, under the command of Major Bartholomew von Heer, served as General Washington's personal guard unit during the Revolutionary War.

All of us can take pride in the accomplishments of German Americans—as soldiers and statesmen, scientists and musicians, artisans and educators. It is fitting that we set aside this special day to remember and celebrate how much German Americans have done to preserve our ideals, enrich our culture, and strengthen our democracy.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim Tuesday, October 6, 1998, as German-American Day. I encourage all Americans to recognize and celebrate the many gifts that millions of people of German descent have brought to this Nation and that have enriched the lives of our citizens.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of October, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.



[FR Doc. 98–27272
Filed 10–7–98; 8:45 am]
Billing code 3195–01–P

Presidential Documents

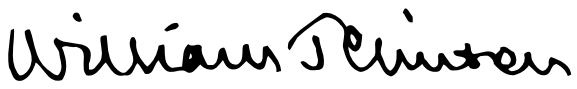
Presidential Determination No. 98–37 of September 29, 1998

Use of $10 Million in Nonproliferation, Anti-Terrorism, Demining and Related Programs Account Funds and $5 Million in Economic Support Funds for a U.S. Contribution to the Korean Peninsula Development Organization (KEDO)

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 614(a)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2364(a)(1) (the ''Act''), I hereby determine that it is important to the security interests of the United States to furnish up to $10 million in funds made available under the heading ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'' in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118), and $5 million in funds made available under Chapter 4 of Part II of the Act for the U.S. contribution to KEDO without regard to any provision of law within the scope of section 614(a)(1). I hereby authorize this contribution.

You are hereby authorized and directed to transmit this determination to the Congress and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 29, 1998.

[FR Docs. 98–27263
Filed 10–7–98; 8:45 am]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 98–38 of September 29, 1998

Presidential Determination Pursuant to Section 582(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998, on Withholding Assistance to the Government of Chad

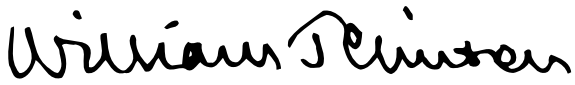
Memorandum for the Secretary of State, the Secretary of Defense, [and] the Administrator of the Agency for International Development

Pursuant to the authority vested in me by section 582(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (the ''Act''), I hereby:

(1) determine and certify that the Government of the Republic of Chad is violating a sanction against Libya imposed pursuant to United Nations Security Council Resolution 748; and

(2) direct that funds not yet obligated that were allocated for Chad under section 653(a) of the Foreign Assistance Act of 1961 (the ''FAA'') out of appropriations in the Act for programs under chapters 4 and 5 of Part II of the FAA shall be withheld from obligation and expenditure for Chad.

The Secretary of State is authorized and directed to report this determination to the Congress and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 29, 1998.

[FR Docs. 98–27264
Filed 10–7–98; 8:45 am]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 98–41 of September 30, 1998

Drawdrawn Under Section 506(a)(2) of the Foreign Assistance Act To Provide Counternarcotics Assistance to Bolivia, Brazil, Colombia, Dominican Republic, Ecuador, Guatemala, Honduras, Jamaica, Mexico, Peru, Trinidad and Tobago, and the Countries of the Eastern Caribbean

Memorandum for the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, [and] the Secretary of Transportation

Pursuant to the authority vested in me by section 506(a)(2) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2318(a)(2) (the ''Act''), I hereby determine that it is in the national interest of the United States to draw down articles and services from the inventory and resources of the Department of Defense, military education and training from the Department of Defense, and articles and services from the inventory and resources of the Departments of Justice, State, Transportation, and the Treasury for the purpose of providing international narcotics assistance to Bolivia, Brazil, Colombia, Dominican Republic, Ecuador, Guatemala, Honduras, Jamaica, Mexico, Peru, and Trinidad and Tobago; and to Antigua and Barbuda, Barbados, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines (hereinafter, ''the Eastern Caribbean countries'').

Therefore, I direct the drawdown of up to $75 million of articles and services from the inventory and resources of the Departments of Defense, Transportation, Justice, State, and the Treasury, and military education and training from the Department of Defense, for Bolivia, Brazil, Colombia, Dominican Republic, Ecuador, Guatemala, Honduras, Jamaica, Mexico, Peru, Trinidad and Tobago, and the Eastern Caribbean countries for the purposes and under the authorities of chapter 8 of part I of the Act.

As a matter of policy and consistent with past practice, the Administration will seek to ensure that the assistance furnished under this drawdown is not provided to any unit of any foreign country's security forces if that unit is credibly alleged to have committed gross violations of human rights unless the government of such country is taking effective measures to bring the responsible members of that unit to justice.

The Secretary of State is authorized and directed to report this determination to the Congress immediately and to arrange for its publication in the **Federal Register**.

THE WHITE HOUSE,
Washington, September 30, 1998.

[FR Docs. 98–27262
Filed 10–7–98; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
Vol. 63, No. 195
Thursday, October 8, 1998

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97–056–17]

Mediterranean Fruit Fly; Removal of Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by removing the quarantined areas in Highlands and Manatee Counties, FL, from the list of quarantined areas. The quarantines were necessary to prevent the spread of the Mediterranean fruit fly to noninfested areas of the United States. There have been no new detections of the Mediterranean fruit fly in these areas since August 10, 1998, and we have, therefore, determined that restrictions on the intrastate and interstate movement of regulated articles from these areas are no longer necessary. As a result of this action, there are no longer any areas quarantined for the Mediterranean fruit fly in the State of Florida. This action also relieves unnecessary restrictions on the intrastate and interstate movement of regulated articles from these areas.

DATES: Interim rule effective October 2, 1998. Consideration will be given only to comments received on or before December 7, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–056–17, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–056–17. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–8247; or e-mail: michael.b.stefan@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

The Mediterranean fruit fly regulations (contained in 7 CFR 301.78 through 301.78–10 and referred to below as the regulations) restrict the movement of regulated articles from quarantined areas to prevent the spread of Medfly to noninfested areas of the United States. Since an initial finding of Medfly infestation in a portion of Dade County, FL, in April 1998, the quarantined areas in Florida have included portions of Dade, Highlands, Lake, Manatee, and Marion Counties.

In an interim rule effective on April 17, 1998, and published in the **Federal Register** on April 23, 1998 (63 FR 20053–20054, Docket No. 98–046–1), we added a portion of Dade County, FL, to the list of quarantined areas and restricted the intrastate and interstate movement of regulated articles from the quarantined area. In a second interim rule effective on May 5, 1998, and published in the **Federal Register** on May 11, 1998 (63 FR 25748–25750, Docket No. 97–056–11), we expanded the quarantined area in Dade County, FL. In a third interim rule effective May 13, 1998, and published in the **Federal Register** on May 19, 1998 (63 FR 27439–27440, Docket No. 97–056–12), we added a portion of Lake and Marion Counties, FL, to the list of quarantined areas and restricted the intrastate and interstate movement of regulated articles from the quarantined area. In a fourth interim rule effective on June 5, 1998, and published in the **Federal Register** on June 11, 1998 (63 FR 31887–31888, Docket No. 97–056–13), we added a portion of Manatee County, FL, to the list of quarantined areas and restricted the intrastate and interstate movement of regulated articles from the quarantined area. In a fifth interim rule effective August 7, 1998, and published in the **Federal Register** on August 13, 1998 (63 FR 43287–43289, Docket No. 97–056–14), we added a portion of Highlands County, FL, to the list of quarantined areas and restricted the intrastate and interstate movement of regulated articles from the quarantined area. In a sixth interim rule effective August 13, 1998, and published in the **Federal Register** on August 20, 1998 (63 FR 44538–44539, Docket No. 97–056–15), we removed the quarantined area in Lake and Marion Counties, FL, from the list of quarantined areas. In a seventh interim rule effective August 24, 1998, and published in the **Federal Register** on August 26, 1998 (63 FR 45392–45393, Docket No. 97–056–16), we removed the quarantined area in Dade County, FL, from the list of quarantined areas.

The Animal and Plant Health Inspection Service (APHIS) and Florida State and county inspectors have not trapped a Medfly in Highlands and Manatee Counties, FL, since August 10, 1998. Since that time, no evidence of infestation has been found in these areas. We are, therefore, removing the quarantined areas in Highlands and Manatee Counties, FL, from the list of areas in § 301.78–3(c) quarantined because of the Medfly. As a precautionary measure, we will continue the release of sterile Medflies and surveillance activities in these areas.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. The portions of Highlands and Manatee Counties, FL, affected by this document were quarantined to prevent the Medfly from spreading to noninfested areas of the United States. Because the Medfly is

no longer being detected in these areas, and because the continued quarantined status of those portions of Highlands and Manatee Counties, FL, would impose unnecessary regulatory restrictions on the public, immediate action is warranted to relieve restrictions.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This interim rule amends the Medfly regulations by removing the quarantined areas in Highlands and Manatee Counties, FL, from quarantine for Medfly. This action affects the intrastate and interstate movement of regulated articles from these areas. We estimate that there are 651 entities in the quarantined areas of Highlands and Manatee Counties, FL, that sell, process, handle, or move regulated articles; this estimate includes 345 commercial growers, 3 transportation terminals, 57 fruit stands, 11 flea markets, 4 citrus packinghouses, 20 mobile vendors, 67 food stores, 4 common carriers, 25 nurseries, 80 lawn maintenance companies, 1 processing plant, 14 vegetable packinghouses, and 20 farmer's markets. The number of these entities that meet the U.S. Small Business Administration's (SBA) definition of a small entity is unknown, since the information needed to make that determination (i.e., each entity's gross receipts or number of employees) is not currently available. However, it is reasonable to assume that most of the 651 entities are small in size, since the overwhelming majority of businesses in Florida, as well as the rest of the United States, are small entities by SBA standards.

The effect of this action on small entities should be minimally positive, as they will no longer be required to treat articles to be moved intrastate and interstate for Medfly.

Therefore, termination of the quarantine of these portions of Highlands and Manatee Counties, FL, should have a minimal economic effect on the small entities operating in these areas. We anticipate that the economic impact of lifting the quarantine, though positive, will be no more significant than was the minimal impact of its imposition.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subject in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

§ 301.78–3 [Amended]

2. In § 301.78–3, paragraph (c), the entry for Florida is removed.

Done in Washington, DC, this 2nd day of October 1998.

William R. DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–27021 Filed 10–7–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–33–AD; Amendment 39–10636; AD 98–14–02]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada PW100 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction to Airworthiness Directive (AD) 98–14–02 applicable to Pratt & Whitney Canada (PWC) PW100 series turboprop engines that was published in the **Federal Register** on July 1, 1998 (63 FR 35794). PWC Service Bulletin (SB) No. 21077, Revision 8, is dated incorrectly. This document corrects the dating of that SB. In all other respects, the original document remains the same.

EFFECTIVE DATE: October 8, 1998.

FOR FURTHER INFORMATION CONTACT: Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7747, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A final rule airworthiness directive applicable to Pratt & Whitney Canada (PWC) PW100 series turboprop engines, was published in the **Federal Register** on July 1, 1998 (63 FR 35794). The following correction is needed:

§ 39.13 [Corrected]

On page 35795, in the second column, in the Supplementary Information Section, in the fourth paragraph, in the third line, ''April 4, 1998'' is corrected to read ''April 4, 1997''.

On page 35796, in the first column, in the Compliance Section, in paragraph (a), in the fifth line, ''April 4, 1998'' is corrected to read ''April 4, 1997''.

On page 35796, in the second column, in the Compliance Section, in paragraph (a), in the sixth line from the top of the

column, ''April 4, 1998'' is corrected to read ''April 4, 1997''.

On page 35796, in the second column, in the Compliance Section, in paragraph (a), in the eleventh line from the top of the column, ''April 4, 1998'' is corrected to read ''April 4, 1997''.

On page 35796, in the first column, in the Compliance Section, in the table in paragraph (e), in the first entry under ''Date'', ''April 4, 1998'' is corrected to read ''April 4, 1997''.

Issued in Burlington, Massachusetts, on October 1, 1998.

Ronald L. Vavruska,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–26973 Filed 10–7–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–70–AD; Amendment 39–10825; AD 98–21–16]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model H.P. 137 Jetstream Mk. 1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 98–12–23, which currently requires replacing the windshield wiper arm attachment bolts and windshield wiper arm on all British Aerospace (BAe) Model H.P. 137 Jetstream Mk. 1, Jetstream Series 200, and Jetstream Models 3101 and 3201 airplanes. AD 98–12–13 also requires measuring the material thickness of the upper and lower toggle attachment brackets on the nose landing gear of the affected airplanes, and replacing the toggle attachment bracket lugs. This AD is the result of additional mandatory continuing airworthiness information (MCAI) pertaining to this subject received from the airworthiness authority for the United Kingdom. This AD would retain the actions of AD 98–12–23; would make certain actions repetitive; and would change the reference to certain service information currently utilized. The actions specified in this AD are intended to prevent the windshield wiper arm from corroding, detaching from the airplane during flight, and penetrating the fuselage, which could result in possible injury to the pilot and passengers; and to prevent collapse of the nose landing gear caused by the current design, which could result in loss of control of the airplane during landing operations.

DATES: Effective January 6, 1999.

The incorporation by reference of the following service information was previously approved by the Director of the **Federal Register** as of July 28, 1998 (63 FR 32119, June 12, 1998):

—Jetstream Series 3100/3200 Service Bulletin 30–JA 950641, which incorporates the following pages:

Pages	Revision level	Date
1	Revision 1	March 18, 1997.
2 through 8 ...	Revision 2	March 18, 1997.

—Jetstream Series 3100/3200 Alert Service Bulletin No. 32–JA 960601, Original Issue: October 25, 1996, Revision No. 1: dated April 11, 1997; and

—APPH Precision Hydraulics Service Bulletin No. 32–66, which incorporates the following pages:

Pages	Revision level	Date
1,3,4, and 5 ..	Revision 1	October 1996.
2 and 6	Revision 2	March 1997.

Comments for inclusion in the Rules Docket must be received on or before November 10, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–70–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–70-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. S. M. Nagarajan, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Discussion

On June 3, 1998, the FAA issued AD 98–12–23, Amendment 39–10577 (63 FR 32119, June 12, 1998), which currently requires the following on BAe Model H.P. 137 Jetstream Mk. 1, Jetstream Series 200, and Jetstream Models 3101 and 3201 airplanes:

—Replacing the windshield wiper arm and windshield wiper arm attachment bolt;

—Measuring the outer wall thickness of the nose landing gear (NLG) toggle bracket lugs and axle bracket lugs; and

—Replacing the toggle bracket lugs and axle bracket lugs immediately and/or at the end of their fatigue life limit, depending on the condition of the parts.

Accomplishment of the actions specified in AD 98–12–23 is required in accordance with the following:

—Jetstream Series 3100/3200 Service Bulletin (SB) 30–JA 950641, which incorporates the following pages:

Pages	Revision level	Date
1	Revision 1	March 18, 1997.
2 through 8 ...	Revision 2	March 18, 1997.

This service bulletin specifies following the procedures provided in Rosemont Aerospace Inc. Service Bulletin No. 2314M–30–16, dated December, 1996;

—APPH Precision Hydraulics SB No. 32–66, which incorporates the following pages:

Pages	Revision level	Date
1,3,4, and 5 ..	Revision 1	October 1996.
2 and 6	Revision 2	March 1997.

This service bulletin is referenced in the Accomplishment Instructions section of Jetstream Series 3100/3200 Alert Service Bulletin No. 32–JA 960601, Original Issue: October 25, 1996, Revision No. 1: dated April 11, 1997.

AD 98–12–23 was the result of mandatory continuing airworthiness information (MCAI) issued by the Civil Airworthiness Authority (CAA), which is the airworthiness authority for the United Kingdom.

Events Leading to the Issuance of This AD

The CAA recently notified the FAA that part of the information it shared with the FAA is incorrect, and consequently there are mistakes in AD 98–12–23. These mistakes are:

—The procedures included in Rosemont Aerospace Inc. Service Bulletin No. 2314M–30–16, dated December 1996, are incorrect, and should not be used to accomplish the windshield wiper arm assembly and wiper arm attachment bolt replacements; and

—The requirement of replacing the windshield wiper arm, attachment bolt, and assembly should be repetitive instead of a one-time action.

The FAA's Determination

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above.

The FAA has examined the information received from the CAA; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design.

Explanation of the Provisions of This AD

Since an unsafe condition has been identified that is likely to exist or develop in other BAe Model HP.137 Jetstream Mk.1, Jetstream Series 200, and Jetstream Models 3101 and 3201 airplanes of the same type design registered in the United States, the FAA is issuing an AD to supersede AD 98–12–23. This AD would retain the actions of AD 98–12–23; would make certain actions repetitive; and would change the reference to certain service information currently utilized in AD 98–12–23. Accomplishment of the actions of this AD would be required in accordance with the previously referenced service bulletins, except for Rosemont Aerospace Inc. Service Bulletin No. 2314M–30–16, dated December 1996.

Cost Impact

The FAA estimates that 314 airplanes in the U.S. registry will be affected by the windshield wiper portion of this AD, that it will take approximately 2 workhours per airplane to accomplish the replacement required by this AD, and that the average labor rate is approximately $60 an hour. Parts will be provided at by the manufacturer at no cost to the owners/operators of the affected airplanes. Based on these figures, the total cost impact for the windshield wiper portion of this AD on U.S. operators is estimated to be $37,680, or $120 per airplane.

The FAA estimates that 284 airplanes in the U.S. registry will be affected by the nose landing gear portion of this AD, that it will take approximately 2 workhours per airplane to accomplish the measurement required by this AD, and that the average labor rate is approximately $60 an hour. The cost impact only takes into account the cost of the initial inspection. The FAA has no way of determining the number of parts that may be found damaged or in need of replacement during the initial inspection. Therefore, the FAA is not estimating the cost of parts or the workhours to accomplish a part replacement for this AD. Based on these figures, the total cost impact for the inspection of the nose landing gear portion of this AD on U.S. operators is estimated to be $34,080, or $120 per airplane.

The only difference between the cost impact of AD 98–12–23 and this AD is the difference between the expense of a one-time replacement of the windshield wiper arm attachment bolt and assembly and the expense of repetitive replacements, respectively. The FAA has no way of determining how many replacements each owner/operator of the affected airplanes would incur over the life of the airplane. Therefore, the cost impact upon the public is the same as was presented in AD 98–12–23.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. The requirements of this direct final rule address an unsafe condition identified by a foreign civil airworthiness authority and do not impose a significant burden on affected operators. In accordance with Section 11.17 of the Federal Aviation Regulations (14 CFR 11.17) unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA

does receive, within the comment period, a written adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–70–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing airworthiness directive (AD) 98–12–23, Amendment 39-10577 (63 FR 32119, June 12, 1998), and by adding a new AD to read as follows:

98–21–16 British Aerospace: Amendment 39–10825; Docket No. 98–CE–70–AD; Supersedes AD 98–12–23, Amendment 39–10577.

Applicability: Model H.P. 137 Jetstream Mk. 1, Jetstream Series 200, and Jetstream Models 3101 and 3201 airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent the windshield wiper arm from corroding, detaching from the airplane during flight, and penetrating the fuselage, which could result in possible injury to pilot and passengers; and to prevent collapse of the nose landing gear caused by design deficiency, which could result in loss of control of the airplane during landing operations, accomplish the following:

(a) Within the next 90 days after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 90 days, replace the windshield wiper arm attachment bolt and windshield wiper arm assembly.

(1) Accomplish these actions in accordance with the appropriate aircraft maintenance manual (AMM) 30–42–02, as specified in the Accomplishment Instructions section of Jetstream Series 3100/3200 Service Bulletin (SB) No. 30–JA 950641, which incorporates the following pages:

Pages	Revision level	Date
1	Revision 1	March 18, 1997.
2 through 8 ...	Revision 2	March 18, 1997.

(2) Do not utilize Rosemont Aerospace Inc. SB No. 2314M–30–16, dated December 1996, which is referenced in Jetstream Series 3100/3200 SB No. 30–JA 950641. The procedures in the Rosemont service bulletin are incorrect.

(b) Within the next 90 days after the effective date of this AD, measure the outer wall thickness of the nose landing gear (NLG) toggle bracket lugs and the axle bracket lugs in accordance with the Accomplishment Instructions section of APPH Precision Hydraulics SB No. 32–66, which incorporates the following pages:

Pages	Revision level	Date
1,3,4, and 5 ..	Revision 1	October 1996.
2 and 6	Revision 2	March 1997.

Note 2: The APPH SB is referenced in the Accomplishment Instructions in Jetstream Series 3100/3200 Alert Service Bulletin No. 32–JA 960601, Revision No. 1, April 11, 1997, Original Issue, October 25, 1996.

(c) Replace the NLG toggle bracket lugs and axle bracket lugs at the applicable compliance times in either paragraph (c)(1) or (c)(2) of this AD, as specified below:

(1) *If the measurements of the outer wall thickness do not meet the criteria set out in the Table contained in paragraph B. (5) of the Accomplishment Instructions section in APPH Precision Hydraulics SB No. 32–66, as referenced in paragraph (b) of this AD:* Prior to further flight and, thereafter, at the end of the fatigue life limits of the part, as specified in the Table referenced above.

(2) *If the measurements of the outer wall thickness are within the criteria set out in the Table contained in paragraph B. (5) of the Accomplishment Instructions section in APPH Precision Hydraulics SB 32-66, as referenced in paragraph (b) of this AD:* At the end of the fatigue life limits of the part, as

specified in the Table referenced above, or within the next 50 landings after the measurement is taken, whichever occurs later; and thereafter at the end of the referenced fatigue life limits of the part.

Note 3: The compliance time in this AD takes precedence over the compliance times published in the applicable service bulletins.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial and repetitive compliance times that provides an equivalent level of safety may be used if approved by the Manager, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

(2) Alternative methods of compliance approved in accordance with AD 98–12–23 are considered approved as alternative methods of compliance for this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(f) The replacements required by this AD shall be done in accordance with Jetstream Series 3100/3200 Service Bulletin 30–JA 950641, which incorporates the following pages:

Pages	Revision level	Date
1	Revision 1	March 18, 1997.
2 through 8 ...	Revision 2	March 18, 1997.

—Jetstream Series 3100/3200 Alert Service Bulletin No. 32–JA 960601, Original Issue: October 25, 1996, Revision No. 1: dated April 11, 1997, and

—APPH Precision Hydraulics Service Bulletin No. 32–66, which incorporates the following pages:

Pages	Revision level	Date
1,3,4, and 5 ..	Revision 1	October 1996.
2 and 6	Revision 2	March 1997.

(1) This incorporation by reference was previously approved by the Director of the **Federal Register** as of July 28, 1998 (63 FE 32119, June 12, 1998).

(2) Copies of these service bulletins may be obtained from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the **Federal Register**, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in British AD 002–10–96, not dated, for the nose landing gear condition; and British AD 006–08–96, not dated, for the windshield wiper condition.

(g) This amendment supersedes AD 98–12–23, Amendment 39–10577.

(h) This amendment becomes effective on January 6, 1999.

Issued in Kansas City, Missouri, on September 30, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–26971 Filed 10–7–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 814

[Docket No. 98N–0168]

Medical Devices; 30–Day Notices and 135–Day PMA Supplement Review

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations governing the submission and review of premarket approval (PMA) supplements to provide for the submission of a 30-day notice for modifications to manufacturing procedures or methods of manufacture. Amendments are being made to implement revisions to the Federal Food, Drug, and Cosmetic Act (the act) as amended by the Food and Drug Administration Modernization Act of 1997 (FDAMA).

EFFECTIVE DATE: November 9, 1998.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kathy M. Poneleit, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2186.

SUPPLEMENTARY INFORMATION:

I. Background

On November 21, 1997, the President signed FDAMA (Pub. L. 105–115) into law. As one of its provisions, FDAMA added section 515(d)(6) to the act (21 U.S.C. 360e(d)(6)). This new section provides that PMA supplements are required for any change to a device that affect safety and effectiveness unless such change involves modifications to manufacturing procedures or method of manufacture. Such changes to manufacturing procedures or method of manufacture will require a 30-day notice or, where FDA finds such notice inadequate, a 135-day PMA supplement.

The agency has developed guidance on this issue entitled ''CDRH Guidance for 30–Day notices and 135–Day PMA Supplements for Manufacturing Method or Process Changes for Use by OC, ODE, and Industry,'' and has announced the availability of the guidance in the **Federal Register** of February 26, 1998 (63 FR 9570).

On April 27, 1998, FDA published a proposed rule (63 FR 20558) and a direct final rule (63 FR 20530) to implement the amendments to the PMA provisions. FDA received a single comment, which the agency deemed to be significant. Accordingly, consistent with FDA's procedures on direct final rulemaking, FDA is withdrawing the direct final rule and is addressing the comment in this final rule based upon the April 27, 1998, proposed rule previously referenced. This rule incorporates the provisions for a 30-day notice and 135-day PMA supplements into FDA's regulations at § 814.39 (21 CFR 814.39).

II. Summary of Comments

The agency received one comment, which stated that the list of examples of changes affecting the safety or effectiveness of a device which would require the submission of a PMA supplement, provided in § 814.39(a), should not include the language in proposed § 814.39(a)(4) which states: ''Changes in manufacturing facilities, methods, or quality control procedures that do not meet the requirements for a submission under paragraphs (e) or (f) of this section.'' The comment states that no submissions are required for changes that do not affect safety or effectiveness and, under FDAMA, changes in manufacturing facilities, methods, or quality control procedures which DO affect the safety or effectiveness of the device may be filed with a 30-day notice. Therefore, proposed § 814.39(a)(4) does not apply to any submissions, and should be removed.

The agency agrees and is removing proposed § 814.39(a)(4) from the list of changes which require the submission of a PMA supplement. The agency stresses, however, that the 30-day notice procedure is restricted to changes only in manufacturing procedures and

methods of manufacture. A PMA supplement would be required if multiple changes are made to a device, even if such changes include changes in manufacturing procedures or methods of manufacture along with other changes which would otherwise require a PMA supplement.

III. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of this final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–121)), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The rule merely codifies applicable statutory requirements imposed by FDAMA. The agency certifies that this final will not have a significant economic impact on a substantial number of small entities. This final rule also does not trigger the requirement for a written statement under section 202(a) of the Unfunded Mandates Reform Act because it does not impose a mandate that results in an expenditure of $100 million or more by State, local, or tribal governments in the aggregate, or by the private sector, in any 1 year.

V. Paperwork Reduction Act of 1995

This final rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection provisions are shown as follows along with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

Title: Supplements to Premarket Approval Applications for Medical Devices

Description: FDAMA added section 515(d)(6) to the act, modifying FDA's statutory authority regarding PMA of medical devices. This new section provides for an alternate form of notice to the agency for certain types of changes to a device for which the manufacturer has an approved PMA. Under this section, PMA supplements are required for all changes that affect safety and effectiveness unless such changes involve modifications to manufacturing procedures or the method of manufacture. For those types of manufacturing changes, the manufacturer may submit to the agency an alternate form of notice in the form of a 30-day notice or, where FDA finds such notice inadequate, a 135-day PMA supplement. The 30-day notice must describe the change the manufacturer intends to make, summarize the data or information supporting the change, and state that the change has been made in accordance with the requirements of part 820 (21 CFR part 820).

The manufacturer may distribute the device 30 days after FDA receives the notice, unless FDA notifies the applicant, within that 30-day period, that the notice is inadequate. If the notice is not adequate, FDA will inform the manufacturer that a 135-day supplement is required and will describe what additional information or action is necessary for FDA to approve the change.

This rule incorporates the provisions for a 30-day notice and 135-day supplements into FDA's regulations at § 814.39 to reflect the changes made by FDAMA.

Description of Respondents: Businesses or other for profit organizations.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
814.39	493	1	493	66.15	32,612

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA believes that the amendments to § 814.39 permitting the submission of 30-day notices in lieu of PMA supplements will result in approximately a 10 percent reduction in the total number of hours needed to comply as compared to § 814.39. As a result, FDA estimates that the new total number of hours needed to comply with information collection requirements in § 814.39 is 32,612, for a reduction of 3,451 hours.

The information collection provisions of this final rule have been submitted to OMB for review. Prior to the effective date of this final rule, FDA will publish a document in the **Federal Register** of OMB's decision to approve, modify, or disapprove the information collection provisions in this final rule. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

List of Subjects in 21 CFR Part 814

Administrative practice and procedure, Confidential business information, Medical devices, Medical research, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of the Food and Drugs, 21 CFR part 814 is amended as follows:

PART 814—PREMARKET APPROVAL OF MEDICAL DEVICES

1. The authority citation for 21 CFR part 814 continues to read as follows:

Authority: 21 U.S.C. 351, 352, 353, 360, 360c–360j, 371, 372, 373, 374, 375, 379, 379e, 381.

2. Section 814.39 is amended by revising paragraph (a) introductory text, by removing paragraph (a)(4) and redesignating paragraphs (a)(5) through (a)(8) as paragraphs (a)(4) through (a)(7), respectively, and by adding paragraph (f) before the concluding text to read as follows:

§ 814.39 PMA supplements.

(a) After FDA's approval of a PMA, an applicant shall submit a PMA supplement for review and approval by FDA before making a change affecting the safety or effectiveness of the device for which the applicant has an approved PMA, unless the change is of a type for which FDA, under paragraph (e) of this section, has advised that an alternate submission is permitted or is of a type which, under section 515(d)(6)(A) of the act and paragraph (f) of this section, does not require a PMA supplement under this paragraph. While the burden for determining whether a supplement is required is primarily on the PMA holder, changes for which an applicant shall submit a PMA supplement include, but are not limited to, the following types of changes if they affect the safety or effectiveness of the device:

* * * * *

(f) Under section 515(d) of the act, modifications to manufacturing procedures or methods of manufacture that affect the safety and effectiveness of a device subject to an approved PMA do not require submission of a PMA supplement under paragraph (a) of this section and are eligible to be the subject of a 30-day notice. A 30-day notice shall describe in detail the change, summarize the data or information supporting the change, and state that the change has been made in accordance with the requirements of part 820 of this chapter. The manufacturer may distribute the device 30 days after the date on which FDA receives the 30-day notice, unless FDA notifies the applicant within 30 days from receipt of the notice that the notice is not adequate. If the notice is not adequate, FDA shall inform the applicant in writing that a 135-day PMA supplement is needed and shall describe what further information or action is required for acceptance of such change. The number of days under review as a 30-day notice shall be deducted from the 135-day PMA supplement review period if the notice meets appropriate content requirements for a PMA supplement.

* * * * *

Dated: October 1, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–26928 Filed 10–7–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1335

[Docket No. NHTSA–98–4532]

RIN 2127–AH43

State Highway Safety Data and Traffic Records Improvements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Interim final rule; request for comments.

SUMMARY: This document specifies requirements that States must meet to be eligible for incentive grants for improved highway safety data and traffic records systems. It is being adopted in accordance with the provisions of the Transportation Equity Act for the 21st Century.

To enable States to begin qualifying for grants as soon as possible, the requirements are being published in an interim final rule, which will go into effect prior to providing notice and the opportunity for comments. However, NHTSA requests comments on the rule. Following the close of the comment period, NHTSA will publish a separate document responding to the comments and, if appropriate, will amend the regulation.

DATES: This interim final rule becomes effective November 9, 1998. Comments on this interim rule are due no later than December 7, 1998.

ADDRESSES: Written comments should refer to the docket number of this notice, and be submitted (preferably two copies) to: Docket Management, Room PL–401, National Highway Traffic Safety Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours are Monday–Friday, 10 a.m. to 5 p.m., excluding Federal holidays.)

FOR FURTHER INFORMATION CONTACT: Mr. John Oates, Chief, Implementation Division, Office of State and Community Services, NSC–01, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone (202) 366–2121 or Ms. Sharon Y. Vaughn, NCC–30, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 366–1834.

SUPPLEMENTARY INFORMATION: The Transportation Equity Act for the 21st Century (TEA–21) was signed into law on June 9, 1998, as Public Law 105–178. Section 2005 of TEA–21 established a new Section 411, entitled State Highway Safety Data Improvements, in Title 23, United States Code (Section 411). Under this new program, States may qualify for incentive grant funds by adopting and implementing effective highway safety data and traffic records improvement programs which meet specified statutory criteria.

Background

For a highway safety program to be effective, it must include a process that identifies highway safety problems, develops measures to address the problems, implements the measures, and evaluates the results. Each stage of the process depends on the availability of highway safety data and traffic records. If these data and records are not accurate, comprehensive, and timely, the program will not be likely to achieve its goals. For this reason, highway safety program managers have always sought improved data and traffic records.

By including Section 411 in TEA–21, Congress has created a grant program to assist the States in developing more accurate, timely and complete highway safety data and traffic records systems. A State that satisfies each of Section 411's criteria will have increased its ability to ensure that its actions to reduce highway deaths and injuries will be effective.

For the purpose of this program, a State means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa or the Commonwealth of the Northern Mariana Islands.

Components required by Section 411

Section 411 provides that a State's highway safety data and traffic records system should have three basic components, all of which must be present if the State is to receive multiple-year grants: a committee to coordinate the development and use of highway safety data and traffic records; a systematic assessment of the State's highway safety data and traffic records; and a strategic plan for the continued improvement of highway safety data and traffic records. Experience has shown that each of these components is essential for a successful highway safety data and traffic records program. The following sections discuss each of these components.

1. Coordinating Committee

In Section 411, Congress recognized that many agencies and organizations within each State have information relevant to highway safety and that coordination among them is essential in order for States to fulfill their role in highway safety. Improved coordination leads to more efficient and effective data collection and analysis methods, promotes data collection and analysis standards, and results in traffic safety data that is timely, accurate and complete. Additionally, coordination may expand the dissemination of comprehensive data as well as the use of the data.

The rule accordingly provides that a qualifying State must have a coordinating committee for highway safety data and traffic records. As provided in § 1335.4 of the rule, the members of the committee must be drawn from the agencies and organizations throughout the State that administer, collect and use highway safety data and traffic records, and the committee must include representatives of highway safety, highway infrastructure, traffic enforcement, public health, injury control, and motor carrier organizations.

Among its enumerated powers, the coordinating committee must have authority to review any of the State's highway safety data and traffic records systems and to review changes to those systems before the changes are implemented. This oversight authority is vital to the effectiveness of the committee. The rule requires that, to receive a grant in subsequent years, the State must certify that the committee continues to operate and supports the strategic plan.

2. Highway Safety Data and Traffic Records Assessment

The second prerequisite for multiple-year grants under Section 411 is that the State must have conducted, within the preceding five years, an assessment of its highway safety data and traffic records. An assessment is an in-depth formal review of a State's highway safety data and traffic records system. The objective of an assessment is to provide the State with an impartial report of the status of the highway safety data and traffic records system in the State. For the purpose of this rule, an assessment includes an audit or strategic planning analysis.

As embodied in § 1335.5 of the rule, the assessment must be conducted by an organization or group that is knowledgeable about highway safety data and traffic records systems, but independent from the organizations involved in the administration, collection and use of the highway safety data and traffic records systems in the State. Final reports prepared by an assessment team provide States with documentation that can be used constructively by the State to obtain resources to make improvements to the highway safety data and traffic records system.

To guide the States in their assessment process, NHTSA strongly recommends that the States use the model assessment process jointly developed by NHTSA and the Federal Highway Administration (FHWA). At a meeting of an expert panel, held in Washington, D.C. on April 30—May 1, 1998, the agencies presented their criteria in the form of a Traffic Records Advisory and an accompanying Traffic Records Assessment. The expert panel was formed specifically to assist NHTSA and the FHWA to revise the current Traffic Records Highway Safety Program Advisory. These documents describe the elements that each system of highway safety data and traffic records should contain and outline the steps that a State can take to ensure that its system contains these elements.

The assessment process has already shown results in States that have used it. States have used assessment reports as a basis for requesting resources for system improvements and for developing strategic traffic records plans. Many of the plans have resulted in short term, relatively low cost improvements (e.g. elimination of duplicate data entry procedures) to State systems as well as improved coordination for future system improvements.

3. Strategic Plan

The third prerequisite for multiple-year Section 411 grants is that the State must have developed a strategic plan for the improvement of its highway safety data and traffic records system.

As provided in § 1335.6 of the rule, a strategic plan must be a multi-year plan that identifies and prioritizes the highway safety data and traffic records needs and goals of a State and identifies performance-based measures by which progress towards those goals will be determined. A strategic plan provides a framework for implementing a system and identifies a statewide approach toward improving coordination, management, integration, and expanded use of highway safety data systems and information for traffic safety plans, programs and policies. The strategic plan defines a shared vision for systematically improving a State's highway safety data and traffic records system and is based on issues and needs identified in its most recent highway safety data and traffic records system assessment.

As a condition for a State's continued eligibility for a grant, the rule requires that the State submit or update its strategic plan each year and that it include information in each application for a subsequent-year grant that shows the progress that the State has made in achieving the goals of the strategic plan.

In developing their strategic plans, States are encouraged to use the ''National Agenda for the Improvement of Highway Safety Information Systems,'' as developed by the Traffic Records Committee of the National Safety Council, in cooperation with NHTSA and the FHWA. The agenda is designed to influence policy makers to adopt six major goals for improving traffic records systems nationwide:

- Instilling an appreciation of the value of highway safety information systems among state, local and national leaders;
- Assuring a coordinated approach to the collection, management and use of data among all organizations with responsibility for transportation policy;
- Integrating the planning of highway safety programs and highway safety information systems;
- Providing managers and users with resources to select appropriate technologies to support information needs;
- Establishing a cadre of professionals in each state trained in analytic methods appropriate for evaluation of highway safety information; and
- Establishing technical standards for characteristics of highway safety information systems.

Model Data Elements

Paragraph (a)(2) of Section 411 requires the Secretary, in consultation with States and other appropriate parties, to determine the model data elements necessary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

As provided in the directive of Section 411, NHTSA has determined that the Model Minimum Uniform Crash Criteria (MMUCC) serve the purposes of the law and has defined ''model data elements'' to mean the elements specified in the MMUCC. The agency developed the MMUCC criteria in cooperation with the FHWA and the National Association of Governor's Highway Safety Representatives, and presented them in final form at the National Safety Council's 24th

International Forum on Traffic Records and Highway Information Systems in July 1998. While conformity to the MMUCC is not required for grant eligibility under Section 411, NHTSA strongly encourages the States to employ the criteria in their highway safety data and traffic records systems, and to consider these criteria when conducting their assessments and developing their strategic plans.

Types of Grant

Section 411 anticipates that some States may not be able to meet all three prerequisites in the first or even the second year of the Section 411 program. The statute further anticipates that the strategic plan will be the most complex, and the most time-consuming, prerequisite to meet.

Accordingly, the section provides for three types of grants: a ''start-up'' grant, in the amount of $25,000, to each State that is not eligible for the other grants, provided that the State certifies that it will use the grant to meet the requisite components in the following year; an ''initiation'' grant, in the amount of $125,000, to each State that has established a coordinating committee, has performed or updated an assessment within the last five years, and has initiated the development of a strategic plan; and an ''implementation'' grant, in the amount described below, to each State that has established a coordinating committee, has performed or updated an assessment within the last five years, and has developed a strategic plan.

The first two types of grants are available for one year only; the third grant is available for multiple years. A State that initially qualifies for a start-up grant may qualify for an initiation or an implementation grant in a subsequent fiscal year, if the State meets the criteria for these types of grants. A State that qualifies for an initiation or an implementation grant in any fiscal year may only receive implementation grants in subsequent fiscal years.

The amount a State receives for an implementation grant is determined by a formula. The amount will be determined by multiplying the amount appropriated to carry out 23 U.S.C. 411 by the ratio that the funds apportioned to the State under 23 U.S.C. 402 for fiscal year 1997 bears to the funds apportioned to all States under 23 U.S.C. 402 for fiscal year 1997, with the following exceptions. If the State has not received an initiation or an implementation grant under the Section 411 program in a previous fiscal year, the State shall receive no less than $250,000. If the State has received either of these two grants under the Section 411 program in a previous fiscal year, the State shall receive no less than $225,000.

All grant amounts are subject to the availability of funds, as specified in § 1335.9 of these regulations.

Limitations on Grant Amounts

No State may receive a grant in more than six fiscal years. A total of $32 million has been authorized for the Section 411 program over a period of four years. Specifically TEA–21 authorizes $5 million for fiscal year 1999, $8 million for fiscal year 2000, $9 million for fiscal year 2001, and $10 million for fiscal year 2002. Funds may be used by States only to adopt and implement improvements to their highway safety data and traffic records programs. The particular activities for which funds may be used are identified in the statute and are listed in § 1335.10(b).

Under Section 411, States are required to match the grant funds they receive as follows: the Federal share cannot exceed 75 percent of the cost of implementing the highway safety data and traffic records programs adopted to qualify for these funds in the first and second fiscal years the State receives funds; 50 percent in the third and fourth fiscal years it receives funds; and 25 percent in the fifth and sixth fiscal years.

No grant may be made to a State unless the State certifies that it will maintain its aggregate expenditures from all other sources for its highway safety data and traffic records programs at or above the average level of such expenditures in fiscal years 1996 and 1997 (either State or Federal fiscal year 1996 and 1997 can be used).

NHTSA will accept a ''soft'' match in Section 411's administration, as it has for the agency's Section 402 and 410 programs. By this, the agency means the State's share may be satisfied by the use of either allowable costs incurred by the State or the value of in-kind contributions applicable to the period to which the matching requirement applies. A State cannot, however, use any Federal funds, such as its Section 402 funds, to satisfy the matching requirements. In addition, a State can use each non-Federal expenditure only once for matching purposes.

Application Procedures

To receive a grant in any fiscal year, the State is required to submit an application to NHTSA, through the appropriate NHTSA Regional Administrator, which demonstrates that the State meets the requirements of the grant being requested. The particular requirements of these grants are defined in detail in § 1335.7 of the regulation. The State also must submit the documentation that is listed in § 1335.12, including such items as certifications that the State will use the funds awarded only for the improvement of highway safety data and traffic records programs and that it will administer the funds in accordance with relevant regulations and OMB Circulars.

In both the first and in subsequent years, once a State has been informed that it is eligible for a grant, the State must include documentation in the State's Highway Safety Plan, prepared under the Section 402 program, that indicates how the State intends to use the grant funds. The documentation must include a Program Cost Summary (HS Form 217) obligating the Section 411 funds to highway safety data and traffic records programs.

To be eligible for grant funds, States must submit their applications no later than January 15 of the year in which they are applying for a grant. The first applications will be due by January 15, 1999. The agency will permit (and strongly encourages) States to submit all of these materials in advance of the regulatory deadlines.

Upon receipt and subsequent approval of a State's application, NHTSA will award grant funds to the State and will authorize the State to incur costs after receipt of an HS Form 217. Vouchers must be submitted to the appropriate NHTSA Regional Administrator and reimbursement will be made to States for authorized expenditures. The funding guidelines applicable to the Section 402 Highway Safety Program will be used to determine reimbursable expenditures under the Section 411 program. As with requests for reimbursement under the Section 402 program, States should indicate on the vouchers what amount of the funds expended are eligible for reimbursement under Section 411.

As provided in the statute and this implementing regulation, States that qualify for grants under the Section 411 program are to receive no less than $25,000 for a ''start-up'' grant, $125,000 for an ''initiation'' grant, $250,00 for an ''implementation'' grant (if the State has not received an initiation or an implementation grant in a previous fiscal year), and $225,000 for an ''implementation'' grant (if the State has received either an initiation or an implementation grant in a previous fiscal year).

NHTSA intends to distribute all grant funds that are available under Section 411 once the agency has determined which States are eligible to receive

grants. In addition, the Secretary may transfer any amounts remaining available under Sections 405, 410 and 411 to the amounts made available under any other of these programs to ensure, to the maximum extent possible, that each State receives the maximum incentive funding for which it is eligible. Accordingly, if funds remain available under the Section 405 or 410 program, additional grant funds may be transferred to the Section 411 program and distributed to eligible States.

However, the agency's release and the States' receipt of the minimum grant amounts identified above will be subject to the availability of funding for each fiscal year. If there are insufficient funds to award these minimum grant amounts to all eligible States in any fiscal year, each eligible State will receive a proportionate share of the available funds.

Project approval, and the contractual obligation of the Federal government to provide grant funds, shall be limited to the amount of funds released.

Interim final rule

These regulations are being published as an interim final rule. Accordingly, the new regulations in Part 1335 are fully in effect 30 days after the date of the document's publication. No further regulatory action by the agency is necessary to make these regulations effective.

These regulations have been published as an interim final rule because insufficient time was available to provide for prior notice and opportunity for comment. Grants will be available beginning in FY 1999, and applications for FY 1999 grants must be received by the agency under this regulation by January 15, 1999. To meet the grant criteria for an implementation grant, States must have established a coordinating committee, completed an assessment and completed a strategic plan. The States have a need to know what the criteria for grants under this program will be as soon as possible so they can take steps to meet these criteria.

In the agency's view, the States will not be impeded by the use of an interim final rule. The procedures that States must follow under this new program are similar to procedures that States have followed in other grant programs administered by NHTSA. These procedures were established by rulemaking and were subject to prior notice and opportunity for comment.

Moreover, the criteria are derived from the Federal statute and their implementation does not involve a significant amount of discretion on the part of the agency. For these reasons, the agency believes that there is good cause for finding that providing notice and comment in connection with this rulemaking action is impracticable, unnecessary, and that an interim final rule is in the public interest.

The agency requests written comments on these new regulations. All comments submitted in response to this document will be considered. Following the close of the comment period, the agency will publish a document in the **Federal Register** responding to the comments and, if appropriate, will make revisions to the provisions of Part 1335.

Written comments

Interested persons are invited to comment on this interim final rule. It is requested, but not required, that two copies be submitted.

All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Written comments to the public docket must be received by December 7, 1998. All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments received after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. NHTSA will continue to file relevant material in the docket as they become available after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all documents will be placed in Docket No. NHTSA–98–4532; in Docket Management, Room PL–401, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590.

Regulatory Analyses

Executive Order 12778 (Civil Justice Reform)

This interim final rule will not have any preemptive or retroactive effect. The enabling legislation does not establish a procedure for judicial review of rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or other administrative proceedings before they may file suit.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The agency has examined the impact of this action and has determined that it is not significant under Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures.

The action will not have an annual effect on the economy of $100 million or more or adversely affect in a material way a sector of the economy, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities. It will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, and it will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Nor does it raise novel legal or policy issues.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the agency has evaluated the effects of this action on small entities. Based on the evaluation, the agency certifies that this action will not have a significant impact on a substantial number of small entities. States are the recipients of any funds awarded under the Section 411 program, and they are not considered to be small entities, as that term is defined under the Regulatory Flexibility Act.

Paperwork Reduction Act

This interim final rule contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the agency has submitted a copy of this section to the Office of Management and Budget for its review.

The public information and recordkeeping burden for this collection of information is estimated to be 112 hours annually. The total number of respondents is estimated to be up to 56. The average number of hours per respondent is 2 (112 hours/56 = 2 hours).

Organizations and individuals desiring to submit comments on the information collection requirements should submit them to Docket Management, Room PL–401, National Highway Traffic Safety Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Comments should refer to the docket

number for this notice and should be sent within 30 days of the publication of this interim final rule.

The agency considers comments by the public on this collection of information in: evaluating whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have a practical use; evaluating the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; enhancing the quality, usefulness, and clarity of the information to be collected; and minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection will be published in the **Federal Register** after it is approved by the OMB.

For more details see the Paperwork Reduction Act Analysis available for copying and review in the public docket.

The title, description, and respondent description of the information collection are shown below with an estimate of the annual burden.

Title: State Highway Data and Traffic Records Improvements

OMB Clearance number: Not assigned

Description of the need for the information and proposed use of the information: To determine whether States comply with grant criteria, NHTSA is requiring States to submit copies of a list of membership of the coordination committees, assessments and strategic plans. In addition, to allow the agency to track grant funds, NHTSA is requiring States to submit a Program Cost Summary (Form 217), allocating the section 405 funds to occupant protection programs.

Description of likely respondents (including estimate of frequency of response to the collection of information): The respondents are the States. All respondents would submit an application and Form 217 to NHTSA in each year they seek to qualify for incentive grant funds.

Estimate of total annual reporting and record keeping burden resulting from the collection of information: NHTSA estimates that each respondent will take 2 hours to prepare and submit the grant application and 1 hour to prepare and submit a Program Cost Summary (Form 217) for an estimated total hour burden on all respondents of 168 hours (3 hours x 56 respondents). Based on an estimated cost of $50.00 per hour employee cost, each response is estimated to cost a State $150. If every jurisdiction considered a ''State'' under this program were to apply, the total cost on all respondents per year would be $8,400. It is not anticipated, however, that all 56 jurisdictions will apply each year.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have determined that it will not have any significant impact on the quality of the human environment.

The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits and other affects of final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This interim final rule does not meet the definition of a Federal mandate, because the resulting annual expenditures will not exceed the $100 million threshold. In addition, this incentive grant program is completely voluntary and States that choose to apply and qualify will receive incentive grant funds.

Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Accordingly, a Federalism Assessment has not been prepared.

List of Subjects in 23 CFR Part 1335

Grant programs—transportation, Highway safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, a new Part 1335 is added to Chapter III of Title 23 of the Code of Federal Regulations to read as follows:

PART 1335—STATE HIGHWAY SAFETY DATA IMPROVEMENTS

Sec.

Authority: 23 U.S.C. 411; delegation of authority at 49 CFR 1.48.

§ 1335.1 Scope.

This part prescribes the requirements necessary to implement Section 411 of Title 23, United States Code, which encourages States to adopt and implement effective data improvement programs.

§ 1335.2 Purpose.

The purpose of this part is to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the data needed by each State to identify highway safety priorities; to evaluate the effectiveness of these improvements; to link highway safety data systems with other data systems within each State; and to improve the compatibility of the data system of each State with national data systems and data systems of other States to enhance the observation and analysis of national trends in crash occurrences, rates, outcomes, and circumstances.

§ 1335.3 Definitions.

As used in this part:

(a) *Highway safety data and traffic records* means data and records relating to crashes, roadways, drivers, vehicles, traffic offense citations/convictions, emergency medical services, locations and other data and records relating to highway safety.

(b) *Coordinating committee* means a committee that meets the requirements of § 1335.4 of this part.

(c) *Assessment* means a review of a State's highway safety data and traffic records system that meets the requirements of § 1335.5 of this part. For the purpose of this Part, an assessment includes an audit or a strategic planning analysis.

(d) *Strategic plan* means a multi-year plan that meets the requirements of § 1335.6 of this part.

(e) *Model data elements* means the data elements contained in the final Model Minimum Uniform Crash Criteria (MMUCC) published by the National Highway Traffic Safety Administration

and the Federal Highway Administration (DOT HS 808 745, August 1998).

(f) *State* means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa or the Commonwealth of the Northern Mariana Islands.

§ 1335.4. Coordinating committee.

A coordinating committee shall—

(a) Include representatives from the administrators, collectors, and users of State highway safety data and traffic records, including representatives of highway safety, highway infrastructure, traffic enforcement, public health, injury control, and motor carrier organizations;

(b) Have authority to review any of the State's highway safety data and traffic records systems and to review any changes to such systems before the changes are implemented;

(c) Provide a forum for the discussion of highway safety data and traffic records issues and report on any such issues to the organizations in the State that create, maintain, and use highway safety data and traffic records;

(d) Consider the views of the organizations in the State that are involved in the administration, collection and use of the highway safety data and traffic records system; coordinate these views among the organizations; and represent the interests of the organizations within the traffic records system to outside organizations;

(e) Review and evaluate new technologies to keep the highway safety data and traffic records systems up-to-date; and

(f) Develop, implement, and administer the strategic plan specified in § 1335.6 of this part.

§ 1335.5. Assessment.

An assessment shall—

(a) Be an in-depth, formal review of a State's highway safety data and traffic records system that considers the criteria contained in the model data elements;

(b) Generate an impartial report of the status of the highway safety data and traffic records system in the State; and

(c) Be conducted by an organization or group that is knowledgeable about highway safety data and traffic records systems, but independent from the organizations involved in the administration, collection and use of the highway safety data and traffic records systems in the State.

§ 1335.6 Strategic plan.

A strategic plan shall—

(a) Be a multi-year plan that identifies and prioritizes the highway safety data and traffic records needs and goals based upon an assessment;

(b) Identify performance-based measures by which progress toward those goals will be determined; and

(c) Be submitted to the coordinating committee for approval.

§ 1335.7 Grant requirements.

(a) *Start-up grant.* To receive a start-up grant in a fiscal year under this part, a State shall submit an application that complies with § 1335.12, and must have—

(1) Not met the requirements of paragraph (b) or (c) of this section; and

(2) Not received any grant under this Part in a previous fiscal year.

(b) *Initiation grant.* To qualify for an initiation grant in a fiscal year under this part, a State shall submit an application that complies with § 1335.12, and must have—

(1) Established a coordinating committee;

(2) Completed or updated an assessment within the five years preceding the date of its application;

(3) Initiated the development of a strategic plan; and

(4) Not received an initiation or an implementation grant under this part in a previous fiscal year.

(c) *Implementation grant.* To qualify for an implementation grant in a fiscal year under this part, a State shall submit an application that complies with § 1335.12, and must have—

(1) Established a coordinating committee;

(2) Completed or updated an assessment within the five years preceding the date of its application; and

(3) Developed a strategic plan.

§ 1335.8 Grant amounts.

(a) *Start-up grant.* A State that qualifies for a start-up grant under § 1335.7(a) of this part shall be eligible to receive $25,000.

(b) *Initiation grant.* A State that qualifies for an initiation grant under § 1335.7(b) of this part shall be eligible to receive $125,000.

(c) *Implementation grant.* A State that qualifies for an implementation grant under § 1335.7(c) of this part shall be eligible to receive an amount determined by multiplying the amount appropriated to carry out 23 U.S.C. 411 by the ratio that the funds apportioned to the State under 23 U.S.C. 402 for fiscal year 1997 bears to the funds apportioned to all States under 23 U.S.C. 402 for fiscal year 1997, except that—

(1) If the State has not received an initiation or an implementation grant under this part in a previous fiscal year, the State shall receive no less than $250,000; and

(2) If the State has received an initiation or an implementation grant under this part in a previous fiscal year, the State shall receive no less than $225,000.

§ 1335.9 Availability of funds.

(a) The release of grant funds under this part in a fiscal year shall be subject to the availability of funds for that fiscal year. If there are expected to be insufficient funds to award the grant amounts specified in § 1335.8 to all eligible States in any fiscal year, NHTSA may release less than these grant amounts upon approval of the State's application and plan, up to the State's proportionate share of available funds. Project approval and the contractual obligation of the Federal government to provide grant funds shall be limited to the amount of funds released.

(b) If any amounts authorized for grants under this part for a fiscal year are expected to remain unobligated in that fiscal year, the Administrator may transfer such amounts to the programs authorized under 23 U.S.C. 405 and 23 U.S.C. 410, to ensure to the extent possible that each State receives the maximum incentive funding for which it is eligible.

(c) If any amounts authorized for grants under 23 U.S.C. 405 and 23 U.S.C. 410 are transferred to the grant program under this part in a fiscal year, the Administrator shall distribute the transferred amounts so that each eligible State receives a proportionate share of these amounts, subject to the conditions specified in § 1335.8 and paragraph (a) of this section.

§ 1335.10 Grant limitations.

(a) No State may receive a grant under this part in more than six fiscal years.

(b) Grants may be used by States only to adopt and implement effective highway safety data and traffic records programs:

(1) To improve the timeliness, accuracy, completeness, uniformity, and accessibility of the data of the State that is needed to identify priorities for national, State and local highway and traffic safety programs;

(2) To evaluate the effectiveness of efforts to make such improvements;

(3) To link these State data systems, including traffic records, with other data systems within the State, such as systems that contain medical and economic data; and

(4) To improve the compatibility of the data system of the State with national data systems and data systems of other States and to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

(c) In the first and second Federal fiscal years a State receives a grant under this part, the Federal share of the costs of adopting and implementing an effective highway safety data and traffic records program shall not exceed 75 percent.

(d) In the third and fourth Federal fiscal year in which a State receives a grant under this part, the Federal share of the costs of adopting and implementing an effective highway safety data and traffic records program shall not exceed 50 percent.

(e) In the fifth and sixth Federal fiscal years a State receives a grant under this part, the Federal share of the costs of adopting and implementing an effective highway safety data and traffic records program shall not exceed 25 percent.

§ 1335.11 Application procedures.

(a) A State applying for a grant under this part shall submit an original and two copies of its application to the NHTSA Regional Administrator for the Region in which the State is located.

(b) To be considered for a grant in any fiscal year, an application must be received by the agency not later than January 15 of that fiscal year.

(c) Within 30 days of being informed by NHTSA that it is eligible for a grant, a State shall submit to the agency a Program Cost Summary (HS Form 217) obligating the funds under this part to highway safety data and traffic records programs.

(d) The State shall document how it intends to use the funds under this part in the Highway Safety Plan it submits pursuant to 23 CFR 1200.

§ 1335.12 Contents of application.

(a) *Start-up grant.* An application for a start-up grant under § 1335.7(a) shall certify that the State —

(1) Does not meet the requirements of § 1335.7 (b) or (c) of this part; and

(2) Will use the grant funds to conduct activities necessary to qualify for a grant under § 1335.7 (b) or (c) of this part in the next fiscal year.

(b) *Initiation grant.* An application for an initiation grant under § 1335.7(b) shall—

(1) Certify that the State has established a coordinating committee, and include the name, title and organizational affiliation of each member of the coordinating committee;

(2) Certify that the State has conducted or updated an assessment within the last five years, and submit a copy of the assessment and any updates of the assessment; and

(3) Certify that the State has initiated the development of a strategic plan, with the supervision and approval of the coordinating committee.

(c) *Implementation grant.* (1) An application for an implementation grant under § 1335.7(c), if the State has not received an initiation or an implementation grant under this part in a previous fiscal year, shall—

(i) Certify that the State has established a coordinating committee, and include the name, title and organizational affiliation of each member of the coordinating committee;

(ii) Certify that the State has conducted or updated an assessment within the last five years, and submit a copy of the assessment and any updates of the assessment;

(iii) Submit a strategic plan that specifies how the grant funds awarded to the State under this part for the fiscal year will be used to address the needs and goals identified in the plan; and

(iv) Certify that the coordinating committee continues to operate and supports the strategic plan.

(2) An application for an implementation grant under § 1335.7(c), if the State has received an initiation or an implementation grant under this part in a previous fiscal year, shall—

(i) Certify that the coordinating committee continues to operate and supports the strategic plan and identify any changes to the membership of the coordinating committee;

(ii) Submit a strategic plan or an update to the plan that specifies how the grant funds awarded to the State under this part for the fiscal year will be used to address the needs and goals identified in the plan; and

(iii) Report on the progress of the State in implementing the strategic plan since the State's previous application.

(d) *Any grant under this part.* An application for a grant under § 1335.7 (a), (b), or (c) of this part shall certify that the State will:

(1) Use the funds awarded under 23 U.S.C. 411 only to adopt and implement an effective highway safety data and traffic records program, in accordance with 23 CFR 1335.10(b);

(2) Administer the funds in accordance with 49 CFR part 18 and OMB Circulars A–102 and A–87; and

(3) Maintain its aggregate expenditures from all other sources for highway safety data and traffic records programs at or above the average level of such expenditures in Federal fiscal years 1996 and 1997 (either State or federal fiscal year 1996 and 1997 can be used).

Issued on: October 2, 1998.

Philip R. Recht,

Deputy Administrator, National Highway Traffic Safety Administration.

[FR Doc. 98–26924 Filed 10–2–98; 4:53 pm]

BILLING CODE 4910–59–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4076a; FRL–6166–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC and NO_X RACT Determinations for Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires volatile organic compounds (VOC) and nitrogen oxides (NO_X) reasonably available control technology (RACT) for four (4) major sources located in Pennsylvania. The intended effect of this rule is to approve source-specific plan approvals, operating permits and compliance permits that establish the above-mentioned RACT requirements in accordance with the Clean Air Act.

DATES: This final rule is effective December 7, 1998 unless within November 9, 1998, adverse or critical comments are submitted. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments may be mailed to David Campbell, Air Protection Division, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch St., Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch St., Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; Pennsylvania Department of Environmental Protection, Bureau of Air

Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: David Campbell, (215) 814–2196, at the EPA Region III office or via e-mail at campbell.dave@epamail.epa.gov. While information may be requested via e-mail, any comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION:

I. Background

On February 20, May 2, and September 13, 1996, the Commonwealth of Pennsylvania submitted formal revisions to its State Implementation Plan (SIP). Each source subject to this rulemaking will be identified and discussed below. Any plan approvals and operating permits submitted coincidentally with those being approved in this document, and not identified below, will be addressed in a separate rulemaking action.

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), Pennsylvania is required to implement RACT for all major VOC and NO_X sources by no later than May 31, 1995. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR), which is established by the CAA. The Pennsylvania portion of the Philadelphia ozone nonattainment area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties and is classified as severe. The remaining counties in Pennsylvania are classified as either moderate or marginal nonattainment areas or are designated attainment for ozone. However, under section 184 of the CAA, at a minimum, moderate ozone nonattainment area requirements (including RACT as specified in sections 182(b)(2) and 182(f)) apply throughout the OTR. Therefore, RACT is applicable statewide in Pennsylvania. The Pennsylvania submittals that are the subject of this document are meant to satisfy the RACT requirements for four (4) sources in Pennsylvania.

Summary of SIP Revision

The details of the RACT requirements for the source-specific plan approvals, operating permits and compliance permits can be found in the docket and accompanying technical support document (TSD) and will not be reiterated in this document. Briefly, EPA is approving a revision to the Pennsylvania SIP pertaining to the determination of RACT for four (4) major sources.

RACT Determinations

The following table identifies the individual plan approvals, operating permits and compliance permits EPA is approving as RACT for natural gas transmission stations which emit VOC and NO_X. The specific emission limitations and other RACT requirements for these sources are summarized in the accompanying technical support document, which is available upon further request from the EPA Region III office listed in the **ADDRESSES** section of this document.

PENNSYLVANIA—VOC AND NO_X RACT Determinations for Individual Sources

Source	County	Plan approval (PA #), operating permit (OP #), compliance permit (CP #)
Consolidated Natural Gas Transmission Corporation—Harrison Station	Potter	PA 53–0005A, OP 53–0005, CP 53–0005A.
Consolidated Natural Gas Transmission Corporation—Leidy Station	Clinton	PA 18–0004A, OP 18–0004, CP 18–0004A.
Consolidated Natural Gas Transmission Corporation—Sabinsville Station	Tioga	PA 59–0002A, OP 59–0002, CP 59–0002A.
Consolidated Natural Gas Transmission Corporation—Tioga Station	Tioga	OP 59–0006.

Several of the plan approvals, operating permits and compliance permits contain a provision that allows for future changes to the emission limitations based on continuous emissions monitoring (CEM) or other monitoring data. Since EPA cannot approve emission limitations that are not currently before it, any changes to the emission limitations as submitted to EPA on February 20, May 2, and September 13, 1996 must be resubmitted to and approved by EPA in order for these changes to be incorporated into the Pennsylvania SIP. Consequently, the source-specific RACT emission limitations that are being approved into the Pennsylvania SIP are those that were submitted on the above-mentioned dates and are the subject of this rulemaking notice. These emission limitations will remain unless and until they are replaced pursuant to 40 CFR part 51 and approved by the U.S. EPA.

EPA is approving this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the rule should adverse or critical comments be filed. This rule will be effective December 7, 1998 without further notice unless the Agency receives relevant adverse comments by November 9, 1998.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on December 7, 1998 and no further action will be taken on the proposed rule. If adverse comments are received that do not pertain to all paragraphs subject to this rule, those paragraphs not affected by the adverse comments will be finalized in the manner described here. Only those paragraphs that receive adverse comments will be withdrawn in the manner described here.

II. Final Action

EPA is approving three (3) plan approvals, four (4) operating permits and three (3) compliance permits as RACT for four (4) individual sources.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior

consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

D. Regulatory Flexibility Act

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. To the extent that the area must adopt new regulations, based on its attainment status, EPA will review the effect of those actions on small entities at the time the State submits those regulations. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

E. Unfunded Mandates

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

F. Submission to Congress and the Comptroller General

Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

G. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be *economically significant* as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is does not involved decisions intended to mitigate environmental health or safety risks.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 7, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such an action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment in response to the proposed redesignation rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 11, 1998.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(134) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(134) Revisions to the Pennsylvania Regulations, Chapter 129.91 pertaining to VOC and NO_X RACT, submitted on February 20, May 2, and September 13, 1996 by the Pennsylvania Department of Environmental Resources (now known as the Pennsylvania Department of Environmental Protection).

(i) Incorporation by reference.

(A) Three (3) letters submitted by the Pennsylvania Department of Environmental Resources (now, the Pennsylvania Department of Environmental Protection) transmitting source-specific VOC and/or NO_X RACT determinations in the form of plan approvals, operating permits or compliance permits on the following dates: February 20, May 2, and September 13, 1996.

(B) Plan Approvals (PA), Operating Permits (OP), Compliance Permits (CP):

(*1*) CNG Transmission Corporation—Harrison, Potter County, PA 53–0005A, effective April 16, 1996, except for the plan approval expiration date and item (or portions thereof) Nos. 4, 9, and 20 relating to non-RACT provisions; OP 53–0005, effective April 16, 1996, except for the operating permit expiration date and item No. 23 relating to non-RACT provisions; and CP 53–0005A effective April 16, 1996.

(*2*) CNG Transmission Corporation—Leidy, Clinton County, PA 18–0004A, effective March 25, 1996, except for the plan approval expiration date and item No. 11 relating to non-RACT provisions; OP 18–0004, effective February 29, 1996, except for the operating permit expiration date and item Nos. 14, 25 and 28 relating to non-RACT provisions; and CP 18–0004A effective March 25, 1996.

(*3*) CNG Transmission Corporation—Sabinsville, Tioga County, PA 59–0002A, effective December 18, 1995, except for the plan approval expiration date and item (or portions thereof) Nos. 3, 4, 5 and 10 relating to non-RACT provisions; OP 59–0002, effective December 18, 1995, except for the operating permit expiration date and item No. 15 relating to non-RACT provisions, and CP 59–0002A effective December 18, 1995.

(*4*) CNG Transmission Corporation—Tioga, Tioga County, OP 59–0006, effective January 16, 1996, except for the operating permit expiration date and item (or portions thereof) Nos. 9, 21, 24 and 28 relating to non-RACT provisions.

(ii) Additional Material.

(A) Remainder of the Commonwealth of Pennsylvania's February 20, May 2, and September 13, 1996 VOC and NO_X RACT SIP submittals for the relevant sources.

[FR Doc. 98–26895 Filed 10–7–98; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN –201–9828a; FRL–6169–6]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions to the Nashville/Davidson County Portion of the Tennessee SIP Regarding Control of Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Nashville/Davidson County portion of Tennessee's State Implementation Plan (SIP) concerning regulatory revisions for control of volatile organic compounds. This regulatory revision to the Metropolitan Nashville and Davidson County, Tennessee's portion of the SIP establishes the emission standard for stationary sources of volatile organic compounds located in Davidson County, Tennessee. The revisions were submitted to EPA on July 23, 1997, by the State of Tennessee through the Tennessee Department of Air Pollution Control (TDAPC).

DATES: This direct final rule is effective December 7, 1998 without further notice, unless EPA receives adverse comment by November 9, 1998. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should address comments on this action to Gregory O. Crawford at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of documents related to this action are available for the public to review during normal business hours at the locations below. If you would like to review these documents, please make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file TN201–01-xxxx. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303, Gregory O. Crawford, (404) 562–9046.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243–1531, (615) 532–0554. Metropolitan Government of Nashville and Davidson County, Metropolitan Health Department, 311–23rd Avenue, North, Nashville, Tennessee 37203, (615) 340–5653.

FOR FURTHER INFORMATION CONTACT: Gregory O. Crawford at (404) 562–9046 or E-mail (crawford.gregory@epamail.epa.gov).

SUPPLEMENTARY INFORMATION:

I. Background

On November 10, 1994, EPA raised the issue that the exemption in Regulation No. 7, Section 7–16, ''Emission Standards for Surface Coating of Miscellaneous Metal Parts and Products,'' Subparagraph (c)(1), was inconsistent with EPA's Guidelines for ''Control of Volatile Organic Compounds Emissions from Stationary Sources, and therefore, EPA could not approve this provision.

II. Analysis of State's Submittal

In an attempt to correct the deficiency, the State of Tennessee submitted revisions to EPA on July 23, 1997, to amend regulation No. 7, ''Regulation for Control of Volatile Organic Compounds, Sections 7–16, Emission Standards for Surface Coating of Miscellaneous Metal Parts and Products'' of the Nashville/Davidson County portion of the Tennessee SIP (Nashville SIP).

From the July 23, 1997, submittal EPA is approving rule revisions to section 7–16(a), 7–16c(11), 7–16(d), and 7–16(f). The revisions are consistent with EPA guidance and are therefore being approved. The revisions are as follows:

Section 7–16(a) adds the definition of ''heavy-duty truck touchup.''

Section 7–16(d)(6) is renumbered to (d)(7), and a new paragraph (d)(6) is added to establish the maximum volatile organic compound emission limits for heavy duty truck touchups. This limit is consistent with EPA guidelines.

Section 7–16(c)(11) is deleted. The definition for heavy-duty truck touchup is now in section 7–16(a), and the new maximum volatile organic compound limit is in Section 7–16(d).

Section 7–16(f) renumbers Paragraphs (f) and (g) to (g) and (h). It also adds a new paragraph (f) that gives the average VOC content limit for owners or operators of miscellaneous metal parts coating lines that apply multiple coatings during the same day.

III. Final Action

EPA is approving the aforementioned changes to the SIP. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective December 7, 1998 without further notice unless the Agency receives relevant adverse comments by November 9, 1998.

If the EPA receives such comments, then EPA will publish a document

withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Only parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on December 7, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

D. Regulatory Flexibility Act

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. To the extent that the area must adopt new regulations, based on its attainment status, EPA will review the effect of those actions on small entities at the time the State submits those regulations. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

E. Unfunded Mandates

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

F. Submission to Congress and the Comptroller General

Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

G. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be '''economically significant''' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is does not involved decisions intended to mitigate environmental health or safety risks.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 7, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such an action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment in response to the proposed redesignation rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 8, 1998.

A. Stanley Meiburg,

Acting Regional Administrator Region 4.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart RR—Tennessee

2. Section 52.2220, is amended by adding paragraph (c)(162) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(162) Revisions to the Nashville/Davidson County portion of the Tennessee State Implementation Plan submitted to EPA by the State of Tennessee on July 23, 1997, concerning regulatory revisions for control of volatile organic compounds.

(i) Incorporation by reference. Regulation No.7, Section 7–16, effective July 9,1997.

(ii) Other material. None.

[FR Doc. 98–26893 Filed 10–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[AL–046–9826a; FRL–6168–4]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Alabama

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) is approving the section 111(d) Plan submitted by the Alabama Department of Environmental Management (ADEM) for the State of Alabama on January 6, 1998, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Municipal Solid Waste (MSW) Landfills. *See* 40 CFR part 60, subpart Cc.

DATES: This final rule is effective on December 7, 1998 without further notice, unless EPA receives relevant adverse comments by November 9, 1998. Should the EPA receive such comments, it will publish a timely document withdrawing this rule.

ADDRESSES: Written comments should be addressed to: Kimberly Bingham, EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104.

Copies of materials submitted to EPA may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460;

EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104; and

Alabama Department of Environmental Management, Air Division, 1751 Congressman W.L. Dickinson Drive, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham at (404) 562–9038 or Scott Davis at (404) 562–9127.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 111(d) of the Clean Air Act (Act), EPA established procedures whereby States submit plans to control certain existing sources of ''designated pollutants.'' Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111, but which are not ''criteria pollutants'' (i.e., pollutants for which National Ambient Air Quality Standards are set pursuant to sections 108 and 109 of the Act) or hazardous air pollutants (HAPs) regulated under section 112 of the Act. As required by section 111(d) of the Act, EPA established a process at 40 CFR part 60, subpart B, which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates a new source performance standard (NSPS) that controls a designated pollutant, EPA establishes EG in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (i.e., the ''designated facility'' as defined at 40 CFR 60.21(b)). Thus, a State, local, or tribal agency's section 111(d) plan for a designated facility must comply with the EG for that source category as well as 40 CFR part 60, subpart B.

On March 12, 1996, EPA published EG for existing MSW landfills at 40 CFR part 60, subpart Cc (40 CFR 60.30c through 60.36c) and NSPS for new MSW Landfills at 40 CFR part 60, subpart WWW (40 CFR 60.750 through 60.759). (*See* 61 FR 9905–9944.) The pollutants regulated by the NSPS and EG are MSW landfill emissions, which contain a mixture of volatile organic compounds (VOCs), other organic compounds, methane, and HAPs. VOC emissions can contribute to ozone formation which can result in adverse effects to human health and vegetation. The health effects of HAPs include cancer, respiratory irritation, and damage to the nervous system. Methane emissions contribute to global climate change and can result in fires or explosions when they accumulate in structures on or off the landfill site. To determine whether control is required, nonmethane organic compounds (NMOCs) are measured as a surrogate for MSW landfill emissions. Thus, NMOC is considered the designated pollutant. The designated facility which is subject to the EG is each existing MSW landfill (as defined in 40 CFR 60.32c) for which construction, reconstruction or modification was commenced before May 30, 1991.

Pursuant to 40 CFR 60.23(a), States were required to either: (1) submit a plan for the control of the designated pollutant to which the EG applies; or (2) submit a negative declaration if there were no designated facilities in the State within nine months after publication of the EG (by December 12, 1996).

EPA has been involved in litigation over the requirements of the MSW landfill EG and NSPS since the summer of 1996. On November 13, 1997, EPA issued a document of proposed settlement in *National Solid Wastes Management Association* v. *Browner, et. al,* No. 96–1152 (D.C. Cir), in accordance with section 113(g) of the Act. *See* 62 FR 60898. It is important to note that the proposed settlement does not vacate or void the existing MSW landfill EG or NSPS. Pursuant to the proposed settlement agreement, EPA published a direct final rulemaking on June 16, 1998, in which EPA is amending 40 CFR part 60, subparts Cc and WWW, to add clarifying language, make editorial amendments, and to correct typographical errors. *See* 63 FR 32743–32753, 32783–32784. EPA regulations at 40 CFR 60.23(a)(2) provide that a State has nine months to adopt and submit any necessary State Plan revisions after publication of a final revised emission guideline document. Thus, States are not yet required to submit State Plan revisions to address the June 16, 1998, direct final amendments to the EG. In addition, as stated in the June 16, 1998, preamble, the changes to 40 CFR part 60, subparts Cc and WWW, do not significantly modify the requirements of those subparts. *See* 63 FR 32744. Accordingly, the MSW landfill EG published on March 12, 1996, was used as a basis by EPA for review of section 111(d) Plan submittals.

This action approves the section 111(d) Plan submitted by the ADEM for the State of Alabama to implement and enforce Subpart Cc.

II. Analysis of State Submittal

On January 6, 1998, ADEM submitted the following information in their section 111(d) Plan for implementing and enforcing the emission guidelines for existing MSW landfills in the State of Alabama: Legal Authority; Enforceable Mechanism; MSW Landfill Source and Emission Inventory; Emission Limits; Collection and Control System Design Plan Review Process; Compliance Schedule; Testing, Monitoring, Recordkeeping and Reporting Requirements; Demonstration That the Public Had Adequate Notice and Opportunity to Submit Written Comments; Submittal of Progress Reports to EPA; and applicable State of Alabama statutes and rules of the Alabama ADEM.

The approval of the Alabama State Plan is based on finding that: (1) ADEM provided adequate public notice of public hearings for the proposed rulemaking which allows the ADEM to implement and enforce the EG for MSW landfills; and (2) ADEM also demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require recordkeeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

In appendix C of the Plan, ADEM cites the following references for the legal authority: Chapter 22A of section 22 of the *Code of Alabama,* ''The Alabama Environmental Management Act; and Chapter 28 of section 22 of the *Code of Alabama,* ''The Alabama Air Pollution Control Act.'' These statutes and regulations are approved as being at least as protective as the Federal requirements for existing MSW landfills.

In appendix A of the Plan, ADEM cites the enforceable mechanism for implementing the EG for existing MSW landfills. The enforceable mechanism is the state regulation adopted by the State of Alabama in Chapter 335–3–19, ''Control of Municipal Solid Waste Landfill Gas Emissions.'' The State's regulation meets the Federal requirements for an enforceable mechanism and is approved as being at least as protective as the Federal requirements contained in Subpart Cc for existing MSW landfills.

In appendix A of the Plan, ADEM cites all emission standards and limitations for the major pollutant categories related to the designated sites and facilities. These standards and limitations in the Alabama ADEM's Chapter 335–3–19–.03, ''Standards for Existing Municipal Solid Waste Landfills,'' are approved as being at least as protective as the Federal requirements contained in Subpart Cc for existing MSW landfills.

The Alabama State Plan describes the process ADEM will utilize for the review of site-specific design plans for gas collection and control systems. The process outlined in the Plan meets the Federal requirements contained in subpart Cc for existing MSW landfills.

In appendix A of the Plan, ADEM cites the compliance schedules adopted in Chapter 335–3–19–.04 for each existing MSW landfill to be in compliance within 30 months of the effective date of their implementing regulation (January 6, 1998). These compliance times for affected MSW landfills address the required compliance time lines of the EG. This portion of the Plan has been reviewed and approved as being at least as protective as Federal requirements for existing MSW landfills.

In appendix B of the Plan, ADEM submitted a source and emission inventory of all designated pollutants for each MSW landfill in the State of Alabama. This portion of the Plan has been reviewed and approved as meeting the Federal requirements for existing MSW landfills.

The Alabama State Plan includes its legal authority to require owners and operators of designated facilities to maintain records and report to the ADEM the nature and amount of emissions and any other information that may be necessary to enable the ADEM to judge the compliance status of the facilities. ADEM also cites its legal authority to provide for periodic inspection and testing and provisions for making reports of MSW landfill emissions data, correlated with emission standards that apply, available to the general public. ADEM submitted its Chapter 335–3–19 to support the requirements of monitoring, recordkeeping, reporting, and compliance assurance. These Alabama rules have been reviewed and approved as being at least as protective as Federal requirements for existing MSW landfills.

As stated on page 4 of the Plan, ADEM will provide progress reports of Plan implementation to the EPA on an annual basis. These progress reports will include the required items pursuant to 40 CFR part 60, subpart B. This portion of the Plan has been reviewed and approved as meeting the Federal requirement for Plan reporting.

Consequently, EPA finds that the Alabama State Plan meets all of the requirements applicable to such plans in 40 CFR part 60, subparts B and Cc. ADEM did not, however, submit evidence of authority to regulate existing MSW landfills in Indian Country. Therefore, EPA is not approving this Plan as it relates to those sources.

III. Final Action

Based on the rationale discussed above, EPA is approving the State of Alabama's section 111(d) Plan, as submitted on January 6, 1998, for the control of landfill gas from existing MSW landfills, except for those existing MSW landfills located in Indian Country. As provided by 40 CFR 60.28(c), any revisions to the Alabama State Plan or associated regulations will not be considered part of the applicable plan until submitted by ADEM in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the revision should significant, material, and adverse comments be filed. This action will be effective December 7, 1998 without further notice unless the Agency receives adverse comments by November 9, 1998.

If the EPA receives such comments, then EPA will publish a timely withdrawal of the direct final rule and inform the public that the rule will not take effect. All public comments received will be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Only parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on December 7, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.)

12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is does not involved decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 7, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, and Reporting and recordkeeping requirements.

Dated: September 3, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR Part 62 is amended as follows:

PART 62—[AMENDED]

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart B—Alabama

2. Part 62.100 is amended by adding paragraphs (b)(3) and (c)(3) to read as follows:

§ 62.100 Identification of plan.

* * * * *

(b) * * *

(3) Alabama Department of Environmental Management Plan For the Control of Landfill Gas Emissions at Existing Municipal Solid Waste Landfills, submitted on January 6, 1998, by the Alabama Department of Environmental Management.

(c) * * *

(3) Existing municipal solid waste landfills.

3. Subpart B is amended by adding a new § 62.103 and a new undesignated center heading to read as follows:

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

§ 62.103 Identification of sources.

The plan applies to existing municipal solid waste landfills for which construction, reconstruction, or modification was commenced before May 30, 1991, that accepted waste at any time since November 8, 1987, or that have additional capacity available for future waste deposition, as described in 40 CFR part 60, subpart Cc.

[FR Doc. 98–26899 Filed 10–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[SIPTRAX NO. VA 011–5034a; FRL–6174–7]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Commonwealth of Virginia; Control of Total Reduced Sulfur Emissions from Existing Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction.

SUMMARY: This document corrects an error in the rule language of a final rulemaking action pertaining to EPA's approval of the section 111(d) plan for control of total reduced sulfur (TRS) emissions from kraft pulp mills submitted by the Commonwealth of Virginia.

EFFECTIVE DATE: November 8, 1998.

FOR FURTHER INFORMATION CONTACT: Artra B. Cooper at (215) 814–2096, or by e-mail at cooper.artra@epamail.gov.

SUPPLEMENTARY INFORMATION: EPA published a document on September 8, 1998 (63 FR 47436) inadvertently adding paragraph (d) under the new § 62.11610. The intent of the document was to add paragraphs (a) through (c) under the new § 62.11610. This document corrects the erroneous amendatory language.

In the final rule (FR Docket 98–23888) published in the **Federal Register** on September 8, 1998 (63 FR 47436), on page 47438 in the first column, remove paragraph (d) from § 62.11610.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this corrective rulemaking action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction rule pertaining to Virginia's section 111(d) plan for control of TRS emissions from kraft pulp mills is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Dated: October 1, 1998.

Thomas Voltaggio,

Acting Regional Administrator, EPA Region III.

[FR Doc. 98–27026 Filed 10–7–98; 8:45am]

BILLING CODE: 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300736; FRL 6036–1]

RIN 2070–AB78

Glyphosate; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of glyphosate *N*-(phosphonomethyl) glycine in or on durian, mangosteen, and rambutan. The Interregional Research Project 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective October 8, 1998. Objections and requests for hearings must be received by EPA on or before December 7, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, OPP–300736, must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy

of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, OPP–300736, must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number OPP–300736. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–7610; e-mail: jackson.sidney@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 26, 1998 (63 FR 45487) (6023–5) EPA, issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide petition (PP) for tolerance by the Interregional Research Project 4. This notice included a summary of the petition prepared by Monsanto Agricultural Group (MAG), the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.364 be amended by establishing tolerances for residues of the herbicide glyphosate *N*-(phosphonomethyl) glycine, in or on durian at 0.2 part per million (ppm), mangosteen at 0.2 ppm, and rambutan at 0.2 ppm.

I. Risk Assessment and Statutory Findings

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the Final Rule on Bifenthrin Pesticide Tolerances November 26, 1997 (62 FR 62961) (FRL 5754–7).

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of glyphosate and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for residues of glyphosate on durian at 0.2 ppm, mangosteen at 0.2 ppm, and rambutan at 0.2 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by glyphosate are discussed below.

1. *Acute toxicity*. The required battery of acute toxicity studies was submitted and found adequate. The findings were as follows: an acute oral study in rats shows a combined lethal dose $(LD)_{50}$ of > 5,000 milligram (mg)/kilogram (kg); an acute dermal study in rabbit resulted in a LD_{50} of > 5,000 mg/kg; a primary dermal irritation and a primary dermal sensitization study essentially showed no irritation and no sensitization, respectively. A primary eye irritation study in the rabbit showed severe irritation for glyphosate acid. However, glyphosate is normally formulated as one of several salts, and eye irritation studies on the salts showed essentially no irritation; a primary dermal irritation study showed essentially no irritation; and a primary dermal sensitization study showed no sensitization.

Based on these results, the Agency concludes that the acute toxicity and irritation potential of glyphosate is low.

2. *Genotoxicity*. A number of mutagenicity studies were conducted and were all negative. These studies included: chromosomal aberration *in vitro* (no aberrations in Chinese hamster ovary cells were caused with or without S9 activation); deoxyribonucleic acid (DNA) repair in rat hepatocyte; *in vivo* bone marrow cytogenic test in rats; rec-assay with *B. subtilis*; reverse mutation test with *S. typhimurium*; Ames test with *S. typhimurium*; and dominant-lethal mutagenicity test in mice. Negative results were obtained when glyphosate was tested in a dominant-lethal mutation assay.

3. *Reproductive and developmental toxicity*. The oral rat and rabbit developmental studies and the oral rat reproduction study demonstrated no indication of increased sensitivity of rats or rabbits to *in utero* and postnatal exposure to glyphosate.

4. *Developmental toxicity study in rats*. Sprague-Dawley rats were dosed by gavage at doses of 0, 300, 1,000, or 3,500 mg/kg/day during days 6–15 of gestation. The maternal (systemic) no-observed adverse effect level (NOAEL) is 1,000 mg/kg/day. The maternal (systemic) lowest-observed effect level (LOAEL) of 3,500 mg/kg/day was based on the following treatment-related effects: diarrhea, decreased mean body weight gain, breathing rattles, inactivity, red matter around the nose and mouth, and on forelimbs and dorsal head, and death (24% of the group). The developmental (fetal) NOAEL is 1,000 mg/kg/day. The developmental (fetal) LOAEL of 3,500 mg/kg/day was based on treatment-related developmental effects observed only in the high-dose group of: decreases in total implantations/dam and inviable fetuses/

dam, increased number of litters and fetuses with unossified sternebrae, and decreased mean fetal body weights.

5. *Developmental toxicity study in rabbit*. Dutch Belted rabbits were gavaged during gestation days 6–27 at doses of 0, 75, 175, or 350 mg/kg/day. The maternal (systemic) NOAEL is 175 mg/kg/day. The maternal (systemic) LOAEL of 350 mg/kg/day was based on treatment-related effects that included: diarrhea, nasal discharge, and death (62.5% of doses died by gestation day 21). The developmental (pup) NOAEL is ≧ 175 mg/kg/day (insufficient litters were available at 350 mg/kg/day to assess developmental toxicity). Developmental toxicity was not observed at any dose.

6. *Three-generation reproduction study in rat*. Sprague-Dawley rats were dosed at 0, 3, 10, or 30 mg/kg/day (equivalent to 0, 30, 100 or 300 ppm). The parental NOAEL is ≧ 30 mg/kg/day highest dose tested (HDT). The reproductive NOAEL was 10 mg/kg/day based on an increased incidence of focal tubular dilation of the kidney (both unilateral and bilateral combined) in the 30 mg/kg/day group high-dose male F_{3b} pups.

Since the focal tubular dilation of the kidneys was not observed at the 1,500 mg/kg/day level, HDT in the 2-generation rat reproduction (see below), but was observed at the 30 mg/kg/day level HDT in the 3-generation rat reproduction study, the Agency's Reference Dose (RfD) Committee concluded that the latter was a spurious rather than glyphosate-related effect. Therefore, the parental and reproductive (pup) NOAELs are ≧ 30 mg/kg/day.

7. *Two-generation reproduction study in rats*. Sprague-Dawley rats were tested at doses of 0, 2,000, 10,000, or 30,000 ppm (100, 500, or 1,500 mg/kg/day). Treatment-related effects observed in the high dose group included: soft stools, very frequent, in the F_o and F_1 males and females, decreased food consumption and body weight gain of the F_o and F_1 males and females during the growth premating period, and decreased body weight gain of the F_{1a}, F_{2a} and F_{2b} male and female pups during the second and third weeks of lactation. Focal tubular dilation of the kidneys, observed in the 3-generation study, was not observed at any dose level in this study.

Based on the above findings, the parental and developmental (pup) NOAEL's are 500 mg/kg/day and the parental and developmental (pup) LOAEL's are 1,500 mg/kg/day. There were no adverse reproductive effects at any dose level.

8. *Subchronic toxicity*—i. In a 90–day feeding study in Sprague-Dawley rats at dietary levels of 0, 1,000, 5,000, or 20,000 ppm (50, 250, and 1,000 mg/kg/day) of glyphosate technical, the NOAEL for systemic toxicity was considered less than 1,000 ppm due to increased serum phosphorus and potassium at all treated doses in both sexes and the occurrence of high dose pancreatic lesions in males (pancreas not examined for low and mid-dose groups).

ii. In a 90–day feeding study in CD-1 mice, dietary levels of 750, 1,500, or 7,500 mg/kg/day (8,000, 30,000, or 50,000 ppm) of technical glyphosate resulted in a systemic NOAEL of 1,500 mg/kg/day with the high dose LOAEL based on decreased weight gains of 24% and 18% in males and females, respectively.

iii. In a 21–day dermal toxicity study in New Zealand white rabbits, glyphosate was applied to 10/sex/dose 5 with intact and 5 with abraded skin at levels of 0, 10, 1,000, or 5,000 mg/kg/day. The rabbits were exposed for 6 hours/day, 5 days/week, for 3 weeks. The systemic NOAEL was 1,000 mg/kg/day and the LOAEL was 5,000 mg/kg/day, based on decreased food consumption in males. Although serum lactate dehydrogenase was decreased in both sexes at the high dose, this finding was not considered to be toxicologically significant.

The required 90–day feeding study in dogs is satisfied by the 1–year dog feeding study.

9. *Chronic toxicity*. A chronic feeding/carcinogenicity feeding study in Sprague-Dawley rats was conducted for 26 months at dietary levels of 0, 30, 100, or 300 ppm (3, 10, or 31 mg/kg/day). There were no systemic effects in any of the parameters examined body weight, food consumption, clinical signs, mortality, clinical pathology, organ weights and histopathology. The systemic NOAEL was established at > 31 mg/kg/day.

10. A second chronic toxicity/carcinogenicity study in Sprague-Dawley rats was conducted at dietary levels of 0, 2,000, 8,000, or 20,000 ppm (89, 362, or 940 mg/kg/day) for males and 113, 457, or 1,183 mg/kg/day for females for 24 months. The systemic NOAEL was established at 8,000 ppm and the LOAEL was identified at 20,000 ppm based on decreased weight gains in the females and increased incidence of cataracts and lens abnormalities, decreased urinary pH, increased absolute liver weight and increased relative liver weight/brain weight in males.

11. In a 1–year chronic toxicity study in beagle dogs, glyphosate technical was administered by gelatin capsule at levels of 0, 20, 100, or 500 mg/kg/day. There were no systemic effects in all examined parameters and the systemic NOAEL was established at > 500 mg/kg/day.

B. Toxicological Endpoints

1. *Acute toxicity*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. In glyphosate studies, an acute dietary endpoint and dose was not identified in the toxicology data base. A review of the rat and rabbit developmental studies did not provide a dose or endpoint that could be used for acute dietary risk purposes. Additionally, there were no data requirements for acute or subchronic rat neurotoxicity studies since there was no evidence of neurotoxicity in any of the toxicology studies at very high doses.

The Agency concludes with reasonable certainty that glyphosate does not elicit an acute toxicological response. An acute dietary risk assessment is not required.

2. *Short - intermediate - and long-term toxicity dermal*. In a 21–day dermal toxicity study in rabbits with technical glyphosate, the NOAEL was 1,000 mg/kg/day and the LOAEL was 5,000 mg/kg/day based on decreased food consumption in females. Although the rabbit developmental study had a maternal toxicity NOAEL of 175 mg/kg/day, use of the 3% dermal absorption with this oral NOAEL of 175 mg/kg/day yields a dermal NOAEL > 5,000 mg/kg/day. A LD_{50} > 2,000 and Toxicity Category III were determined in acute dermal toxicity testing. Doses and endpoints were not identified for dermal and inhalation route of exposure. This risk assessment is not required and a dermal absorption factor is not applicable here in evaluating exposure/risk.

3. *Chronic toxicity*. EPA has established the RfD for glyphosate at 2.0 mg/kg/day. The chronic RfD is based on a NOAEL = 175 mg/kg/day based on death, diarrhea, and nasal discharge at 350 mg/kg/day LOAEL with an uncertainty factor of 100. The data base for RfD determination was developed from multiple species testing.

Groups of 16/dose Dutch Belted rabbits were dosed with technical glyphosate at doses of 0, 75, 175, or 350 mg/kg/day between gestation days 6 to 27. Maternal effects were seen at only the high dose and consisted of diarrhea, nasal discharge and death 10/16.

Developmental effects were not seen at any dose tested. Therefore, the NOAEL and LOAEL for maternal toxicity were 175 mg/kg/day and 350 mg/kg/day, respectively. The NOAEL for maternal toxicity in the rabbit developmental study was the lowest NOAEL of all the major studies which include the 24–month mouse carcinogenicity study NOAEL = 750 mg/kg/day, the 1–year dog study NOAEL = 500 mg/kg/day, 2-year chronic/onco rat study NOAEL = 400 mg/kg/day, 2–generation rat reproduction study NOAEL = 500 mg/kg/day and rat developmental study NOAEL = 1000 mg/kg/day

An uncertainty factor (UF) of 100 was applied to account for inter-(10x) and intra-(10x) species variation. The 10X factor to protect infants and children as required by FQPA was removed, since there was no special sensitivity for infants and children and the database is complete.

4. *Carcinogenicity*. EPA's Cancer Peer Review Committee classified glyphosate as a ''Group E'' pesticide which shows no evidence for carcinogenicity in rats and mice.

A chronic feeding/carcinogenicity study in Sprague-Dawley rats was performed at doses of 0, 30, 100, or 300 ppm (3, 10, or 31 mg/kg/day) for males and 3, 14, or 34 mg/kg/day for females for 26 months. At the high-dose, in comparison to concurrent controls, the following results were observed: increased incidence of C-cell thyroid carcinomas in females and an increased incidence of interstitial cell Leydig cell testicular tumors. The thyroid tumors were not statistically significant by pairwise comparison to controls and the testicular tumors were within the range of historical controls for studies of comparable duration. It was concluded that the study results were negative for carcinogenicity, but that the dose levels were not high enough to assess carcinogenic potential.

A second chronic feeding/carcinogenicity study was conducted in Sprague-Dawley rats for 24 months at dose levels of 2,000, 8,000, or 20,000 ppm (89, 362, or 940 mg/kg/day) for males and 113, 457, or 1,183 mg/kg/day in females. The results showed increased incidence of pancreatic islet cell adenomas at the low and high dose in males, hepatocellular adenomas at the low and high dose in males, and C-cell thyroid adenomas in both sexes at the mid and high dose group. Each of the tumor types was not considered treatment-related for the following reasons:

i. The pancreatic islet cell tumors had no statistically significant dose-related trend, there was no progression to carcinomas, and the incidence of pancreatic hyperplasia was not dose-related.

ii. The hepatocellular adenomas were within the range of historical controls, these liver tumors were not statistically significant by pairwise comparison to concurrent controls, there was no progression to carcinoma, and the incidence of hyperplasia was not considered compound-related.

iii. The C-cell thyroid tumors were not statistically significant by pairwise comparison and positive dose-related trend, there was no progression to carcinoma, and there was no statistically significant dose-related increase in either incidence or severity of hyperplasia in either sex.

A carcinogenicity study in CD-1 mice was conducted for 24 months at doses of 0, 150, 750, or 4,500 mg/kg/day (0, 1,000, 5,000, or 30,000 ppm). There were no effects at the low and mid-doses. At the high dose, an increased incidence of renal tubular adenomas was seen in males, but not in females zero incidence for all groups. In males, the incidence was 1, 0, 1, and 3 out of 50/sex/dose. The occurrence of this rare tumor was not statistically significant by pairwise comparison to concurrent controls, but had a statistically significant dose-related trend. There was no tumor associated non-neoplastic lesions in males, but females had an increased incidence of proximal tubule epithelial basophilia and hypertrophy in the absence of any renal tubular neoplasms. In males, there was an increased incidence of interstitial nephritis, hepatocellular hypertrophy and hepatocellular necrosis. There was also statistically significant decreased weight gain in both sexes. The high dose of 30,000 ppm exceeded the limit dose 7,000 ppm for mice. The Agency concluded, based on a weight of the evidence evaluation, that the renal tubular adenomas were not compound related due to the absence of pairwise statistical significance for males, the absence of related non-neoplastic lesion in males, and the presence of related non-neoplastic lesions in females in the absence of renal tubular adenomas. Additionally, the high dose exceeded the limit dose required for testing in mice.

5. *Inhalation exposure general and long-term considerations*. Formulations of glyphosate are Toxicity Category III or IV and technical glyphosate is a wetcake. The acute inhalation study was waived for technical glyphosate. A dose and endpoint were not identified for this risk assessment. This risk assessment is not required.

C. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.364) for the residues of glyphosate, in or on a variety of raw agricultural commodities. Existing glyphosate tolerances are numerous with values ranging from a low of 0.1 to a high of 200 ppm. Glyphosate residues could possibly be transferred to meat and milk. However, in feeding studies, no residues of glyphosate were found in milk or fat at any dosing level and only minimal residues were found in eggs and muscle (at the highest dose of 400 ppm). Significant residue levels were found in animal liver and kidney, however, secondary residues are not expected to exceed currently established animal tolerances. Risk assessments were conducted by EPA to assessed dietary exposures from glyphosate as follows:

Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances.

The Agency's dietary risk evaluation system (DRES) analysis was used for the chronic dietary exposure estimate for glyphosate. Using permanent and time-limited tolerances, dietary exposure to residues of glyphosate resulted in a TMRC equivalent to ≤ 3% of the RfD for all population subgroups. No percent crop treated or anticipated residue data were used in the analysis. By using the TMRC, the Agency is reasonably certain that exposure is not underestimated for any significant subpopulation. An uncertainty factor of 100 is used for all subgroups. The proposed tolerances are for uses considered as Low Dietary Intake (LDI) crops since the total acreage for all three crops is less than 100 acres.

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of

a one day or single exposure. An acute dietary endpoint and dose was not identified in the toxicology data base. A review of the rat and rabbit developmental studies did not provide a dose or endpoint that could be used for acute dietary risk purposes. Additionally, there were no data requirements for acute or subchronic rat neurotoxicity studies since there was no evidence of neurotoxicity in any of the toxicology studies at very high doses.

ii. *Chronic exposure and risk.* The chronic dietary exposure analysis from food sources was conducted using the reference dose (RfD) of 2.0 mg/kg/day. The RfD is based on the maternal NOAEL of 175 mg/kg/day in female rabbits from the developmental study in rabbits, and an uncertainty factor of 100 which is applicable to all population subgroups.

Durian, mangosteen, and rambutan all qualify as Low Dietary Intake (LDI) crops since the total acreage for all three is less than 100 acres. Consequently, no data on these tropical fruits are included in the current version of the DRES system. In conducting this chronic dietary risk assessment, the Agency has assumed that inclusion of these tropical fruits would not significantly change the resulting % RfD values because glyphosate currently has tolerances on a large number of non-LDI crops. In addition, EPA would note the exposure estimate for existing tolerances is in an overestimate of human dietary exposure due to the conservative assumptions built into the system.

The existing glyphosate tolerances result in a TMRC that is equivalent to the following percentages of the RfD:

For subgroups, U.S. population (48 states), nursing infants (<1 year old) and non-nursing infants (<1 year old) the % RfD is 1.2, 1.2, and 3.3, respectively. For the subgroups, children (1–6 years old), children (7–12 years old), and males (13–19 years old) the % RfD is 2.6, 1.8, and 1.2, respectively.

2. *From drinking water.* The GENEEC model and the SCI-GROW model were run to produce estimates of glyphosate concentrations in surface and ground water, respectively. The primary use of these models is to provide a coarse screen for sorting out pesticides for which EPA has a high degree of confidence that the true levels of the pesticide in drinking water will be less than the human health drinking water levels of concern (DWLOCs). A human health DWLOC is the concentration of a pesticide in drinking water that would be acceptable as an upper limit in light of total aggregate exposure to that chemical from food, water, and non-occupational (residential) sources.

$DWLOC_{chronic}$ is the concentration in drinking water as part of the aggregate chronic exposure that results in a negligible cancer risk. The Agency's default body weights and consumption values used to calculate DWLOCs are as follows: 70 kg/2L(liter) (adult male), 60 kg/2L (adult female), and 10 kg/1L (child).

i. *Acute exposure and risk.* An acute dietary endpoint and dose was not identified in the toxicology data base. Adequate rat and rabbit developmental studies did not provide a dose or endpoint that could be used for acute dietary risk purposes. Additionally, there were no data requirements for acute or subchronic rat neurotoxicity studies since there was no evidence of neurotoxicity in any of the toxicology studies at very high doses.

The Agency concludes that no harm to public would result due to acute risk for the proposed uses of glyphosate.

ii. *Chronic exposure and risk.* For chronic (non-cancer) exposure to glyphosate in surface and ground water, the drinking water levels of concern are 69,000 µg/L for males (13 yrs+), 59,000 µg/L for females (13 yrs+) and 19,000 µg/L for children (1–6 yrs). To calculate the DWLOC for chronic (non-cancer) exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from DRES) was subtracted from the RfD to obtain the acceptable chronic (non-cancer) exposure to glyphosate in drinking water. DWLOCs were then calculated using default body weights and drinking consumption figures.

Estimated average concentrations of glyphosate in surface and ground water are 0.063 ppb (after adjustment for the highly conservative nature of the GENEEC model) and 0.0011 ppb, respectively. The estimated average concentrations of glyphosate in surface and ground water are less than EPA's level of concern for glyphosate in drinking water as a contribution to chronic aggregate exposure. Therefore, taking into account present uses and uses proposed in this action, EPA concludes with reasonable certainty that residues of glyphosate in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

3. *From non-dietary exposure.* Glyphosate is currently registered for use on the following residential non-food sites: non-food crops and a variety of other uses including ornamentals, greenhouses, residential areas, lawns, and industrial rights of way. Glyphosate is formulated in liquid and solid forms and it is applied using ground or aerial equipment. Based on the registered uses of glyphosate, the potential for occupational and residential exposures exists. However, based on the low acute toxicity and the lack of other toxicological concerns, glyphosate does not meet the Agency's criteria for occupational and residential data requirements. The Agency believes that no significant harm to public health would result due to non-dietary exposure from proposed uses of glyphosate.

i. *Acute exposure and risk.* There are no acute toxicological concerns for glyphosate.

ii. *Chronic exposure and risk.* Although there are registered residential uses for glyphosate, glyphosate does not meet the Agency's criteria for residential data requirements, due to the lack of toxicological concerns. Incidental acute and/or chronic dietary exposures from residential uses of glyphosate are not expected to pose undue risks to the general population, including infants and children.

iii. *Short- and intermediate-term exposure and risk.* EPA identified no toxicological concerns for determined that short- intermediate- and long-term dermal or inhalation routes of exposures. The Agency concludes that exposures from residential uses of glyphosate are not expected to pose undue risks.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether glyphosate has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, glyphosate does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that glyphosate has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the Final Rule for Bifenthrin

Pesticide Tolerances November 26, 1997 (62 FR 62961) (FRL 6023–5).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* There was no acute dietary endpoint identified, therefore no acute toxicological concerns for glyphosate.

2. *Chronic risk.* Using the TMRC exposure assumptions described above, EPA has concluded that aggregate exposure to glyphosate from food will utilize 1.2% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants less than 1 year old, which utilizes 3.3% of the RfD). EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to glyphosate in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

3. *Short- and intermediate-term risk.* Short-term and intermediate-term dermal and inhalation risk is not a concern due to the lack of significant toxicological effects observed with glyphosate under these exposure scenarios.

Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

4. *Aggregate cancer risk for U.S. population*. Glyphosate has been classified as a Group E chemical, with no evidence of carcinogenicity for humans in two acceptable animal studies.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to glyphosate residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*—i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of glyphosate, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies.* In oral rat and rabbit developmental studies and the oral rat reproduction study demonstrated no indication of increased sensitivity of rats or rabbits to *in utero* and postnatal exposure to glyphosate. In the rat developmental study, the developmental NOAEL was 1,000 mg/kg/day and the maternal NOAEL was 1,000 mg/kg/day. Therefore, there was no prenatal developmental toxicity in the absence of maternal toxicity. Similarly in rabbits, the prenatal developmental NOAEL was 350 mg/kg/day and the maternal NOAEL was 175 mg/kg/day. Therefore, prenatally exposed fetuses were not more sensitive to the effects of glyphosate than maternal animals.

iii. *Reproductive toxicity study*. In a rat reproduction study, the parental NOAEL of 10,000 ppm was identical to the pup NOAEL of 10,000 ppm and decreased body weight was seen in both pup and parental animals. This finding demonstrates that there are no extra sensitivities with respect to pre- and post-natal toxicity between adult and infant animals.

iv. *Pre- and post-natal sensitivity*. The oral perinatal and prenatal data demonstrated no indication of increased sensitivity of rats or rabbits to *in utero* and postnatal exposure to glyphosate.

v. *Conclusion*. There is a complete toxicity database for glyphosate and exposure data are complete or estimated based on data that reasonably accounts for potential exposures. Based on these data, there is no indication that the developing fetus or neonate is more sensitive than adult animals. No developmental neurotoxicity studies are being required at this time. A developmental neurotoxicity data requirement is an upper tier study and required only if effects observed in the acute and 90-day neurotoxicity studies indicate concerns for frank neuropathy or alterations seen in fetal nervous system in the developmental or reproductive toxicology studies. The Agency believes that reliable data support the use of the standard 100-fold uncertainty factor, and that a tenfold (10x) uncertainty factor is not needed to protect the safety of infants and children.

2. *Acute risk.* Although there are no acute toxicological endpoints for glyphosate, there exist an adequate exposure database to assess potential adverse effects on infants and children, the most highly exposed subgroup which utilize 3.3% of the RfD. The Agency concludes that the establishment of the proposed tolerances would not pose an unacceptable aggregate risk.

3. *Chronic risk.* Using the exposure assumptions described above, EPA has concluded that aggregate exposure to glyphosate from food will utilize 3.3% of the RfD for infants and children. For the general population, aggregate exposure to glyhosate from food is 1.2% of the RFD. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health . Despite the potential for exposure to glyphosate in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

4. *Short- or intermediate-term risk.* Short-term and intermediate-term dermal and inhalation risk is not a concern due to the lack of significant toxicological effects observed with glyphosate under these exposure scenarios.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to glyphosate residues.

III. Other Considerations

A. Metabolism In Plants and Animals

The qualitative nature of the residue in plants is adequately understood. Studies with a variety of plants

including corn, cotton, soybeans, and wheat indicate that the uptake of glyphosate or its metabolite, aminomethylphosphonic acid (AMPA), from soil is limited. The material which is taken up is readily translocated. Foliarly applied glyphosate is readily absorbed and translocated throughout the trees of vines to the fruit of apples, coffee, dwarf citrus (calamondin), pears and grapes. Metabolism via *N*-methylation yields *N*-methylated glycines and phosphonic acids. For the most part, the ratio of glyphosate to AMPA is 9 to 1 but can approach 1 to 1 in a few cases (e.g., soybeans and carrots). Much of the residue data for crops reflects a detectable residue of parent (0.05 – 0.15 ppm) along with residues below the level of detection (< 0.05 ppm) of AMPA. The terminal residue to be regulated in plants is glyphosate *per se*.

The qualitative nature of the residue in animals is adequately understood. Studies with lactating goats and laying hens fed a mixture of glyphosate and AMPA indicate that the primary route of elimination was by excretion (urine and feces). These results are consistent with metabolism studies in rats, rabbits, and cows. The terminal residues in eggs, milk, and animal tissues are glyphosate and its metabolite AMPA; there was no evidence of further metabolism. The terminal residue to be regulated in livestock is glyphosate *per se*.

B. Analytical Enforcement Methodology

Adequate enforcement methods are available for analysis of residues of glyphosate in or on plant commodities. These methods include GLC (Method I in *Pesticides Analytical Manual (PAM) II*; the limit of detection is 0.05 ppm) and HPLC with fluorometric detection. Use of the GLC method is discouraged due to the lengthiness of the experimental procedure. The HPLC procedure has undergone successful Agency validation and was recommended for inclusion in PAM II. A GC/MS method for glyphosate in crops has also been validated by EPA's Analytical Chemistry Laboratory (ACL).

Adequate analytical methods are available for residue data collection and enforcement of the proposed tolerances of glyphosate in or on durian, mangosteen, and rambutan.

C. Magnitude of Residues

Residue studies for glyphosate were not submitted for review with this petition. However, the Agency believes that data submitted previously in support of petitions may be used to support proposed uses.

The proposed use for glyphosate is for orchard floor treatment. The registrant referenced extensive experience and data with glyphosate in/on tree fruit and nuts crops which show that when orchard floor applications are made, no detectable residues of the herbicide are recovered in the harvested fruit. Based on these data EPA expects no detectable residues of glyphosate in durian, mangosteen or rambutan when glyphosate is applied in a similar manner. Glyphosate is known to be a water soluble chemical and does not rapidly transport into trees from soil. Residues are expected to be mainly due to contamination (e.g., spray drift). Therefore, significant amounts of residues are not expected to be detected in tree crops.

Tolerances for the combined residues of glyphosate and its metabolite, aminomethylphosphonic acid (AMPA), have been established at 0.2 ppm on a number of tree fruit and nuts, as well as a variety of tropical fruit: acerola, atemoya, avocado, banana, breadfruit, canistel, carambola, cherimoya cocoa beans, coconuts, dates, figs, genip, jaboticaba, jackfruit, longan, lychee, mango, mayhaw, passion fruit, persimmon, pomegranate, sapodilla, sapote, soursop, sugar apple and tamarind. Any secondary residues occurring in milk, eggs, meat, fat, liver and kidney of cattle, goats, horses, hogs, poultry and sheep are covered by existing tolerances.

EPA has determined that AMPA should be dropped from the tolerance expression. Tolerances that are the subject of this notice are based solely on residues of glyphosate.

D. International Residue Limits

There are no CODEX, Canadian, or Mexican tolerances for glyphosate residues on durian, mangosteen, or rambutan. Therefore, international harmonization is not an issue at this time.

IV. Conclusion

Therefore, the tolerance is established for residues of glyphosate *N*-(phosphonomethyl) glycine in durian commodity at 0.2 ppm, mangosteen at 0.2 ppm, and rambutan at 0.2 ppm.

V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by December 7, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee or a fee waiver request as specified prescribed by 40 CFR 180.33. If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number OPP–300736 (including any comments and data submitted electronically). A public version of this

record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''**ADDRESSES**'' at the beginning of this document.

VII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the [tolerances /exemption] in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 29, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.364, paragraph (a), by designating the text following the paragraph heading as paragraph (a)(1), and by adding paragraph (a)(2) to read as follows:

§ 180.364 Glyphosate; residues for tolerances.

(a) * * *

(2) Tolerances are established for residues of glyphosate *N*-(phosphonomethyl) glycine in or on the commodities list in the table as follows:

Commodity	Parts per million
Durian	0.2
Mangosteen	0.2
Rambutan	0.2

* * * * *

[FR Doc. 98–26906 Filed 10–7–98; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300739; FRL–6034–1]

RIN 2070–AB78

Sethoxydim; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of sethoxydim (2-[1-(ethoxyimino]butyl)-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one) and its metabolites containing the 2-cyclohexen-1-one moiety(calculated as the herbicide) in or on apricots, cherries (sweet and sour), nectarines, peaches, succulent beans, bean forage, soybeans, grapes, raisins, cilantro, leafy vegetable (except Brassica) crop group, tuberous and corm vegetable subgroup, garden beets, caneberry crop sub group, and globe artichoke. This regulation also deletes the established tolerances for raisin waste, grape pomace, celery, head lettuce, leaf lettuce, spinach, endive(escarole), potato, sweet potato, and raspberry. BASF Corporation and Interregional Research Project Number (IR–4) requested these tolerances under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Pub. L. 104–170).

DATES: This regulation is effective October 8, 1998. Objections and requests for hearings must be received by EPA on or before December 7, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300739], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300739], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300739]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Jim Tompkins or Hoyt Jamerson, Registration Division [7505C], Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Jim Tompkins (703) 305 5697, Hoyt Jamerson (703) 308 9368, e-mail: Tompkins.jim or Jamerson,hoyt]@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 16, 1997 (62 FR 27028)(FRL–5717–6) and August 5, 1998(63 FR 41829)(FRL–5799–6), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide petition (PP) for tolerance by BASF Corporation, P.O. Box 13528, Research Triangle Park, NC 27709, and Interregional Research Project Number 4 (IR–4), New Jersey Agricultural Experimental Station, Rutgers University, New Brunswick, New Jersey 08903. These notices included a summary of the petitions prepared by BASF Corporation, the registrants, and IR–4. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.412 be amended by establishing tolerances for combined residues of the herbicide sethoxydim (2-[1-ethoxyimino]butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexen moiety (calculated as the herbicide), in or on 9F3408 (62 FR 27028) apricots at 0.2 part per million (ppm), cherries (sweet and sour) at 0.2 ppm, nectarine at 0.2 ppm, and peaches at 0.2 ppm; 6F4695 (63 FR 41829) grapes at 1.0 ppm, succulent beans at 15.0 ppm; bean forage at 15.0 ppm, soybeans at 16.0 ppm, and raisins at 2.0 ppm; 6E4953 (63 FR 41829) leafy vegetable (except Brassica) crop group at 4.0 ppm and cilantro at 4.0 ppm; 6E4725 (63 FR 41829)--tuberous and corm vegetable subgroup at 4.0 ppm and garden beet at 1.0 ppm; 6E4698 (63 FR 41829) artichokes at 5.0 ppm; and 6E4697(63 FR 41829) caneberry crop subgroup at 5.0 ppm.

The notice issued August 5, 1998 (63 FR 41829) for 6F4695 proposed deleting the established tolerances for raisin waste at 1.0 ppm and grape pomace at 6.0 ppm since they are considered insignificant animal feed commodities and are no longer of regulatory concern.

The August 5, 1998 notice also proposed to remove or delete the established tolerances for celery at 1.0 ppm, head lettuce at 1.0 ppm, leaf lettuce at 2.0 ppm, spinach at 4.0 ppm, endive(escarole) at 2.0 ppm (6E4753); potato at 4.0 ppm, and sweet potato at

4.0 ppm (6E4725); and raspberry at 5.0 ppm (6E4797) since these commodities are members of the crop groups or subgroups for which tolerances are being established.

The correct terminology for artichoke is globe artichoke. The Agency is correcting the terminology in this rule.

I. Risk Assessment and Statutory Findings

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the Final Rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of sethoxydim and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for combined residues of 2-[1-ethoxyimino)butyl]-5-[2-(ethiothio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexen-1-one moiety(calculated as the herbicide) on [apricots at 0.2 ppm, cherries (sweet and sour) at 0.2 ppm, nectarines at 0.2 ppm, peaches at 0.2 ppm, grapes at 1.0 ppm, succulent beans at 15.0 ppm, bean forage at 15.0 ppm, soybeans at 16.0 ppm, raisins at 2.0 ppm, leafy vegetable (except Brassica) crop group at 4.0 ppm., cilantro at 4.0 ppm, tuberous and corm vegetable subgroup at 4.0 ppm, garden beet at 1.0 ppm, globe artichoke at 5.0 ppm, and caneberry crop subgroup at 5.0 ppm. ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by sethoxydim are discussed below.

1. *Acute toxicity*. Based on the available acute toxicity data, sethoxydim does not pose any acute dietary risks. A summary of the acute toxicity studies follows.

i. *Acute oral toxicity, rat.* Toxicity Category III; LD_{50}=3,125 millgrams/kilogram (mg/kg) (male), 2,676 mg/kg (female)

ii. *Acute dermal toxicity, rat.* Toxicity Category III; LD_{50} > 5,000 mg/kg (male and female)

iii. *Acute inhalation toxicity, rat.* Toxicity Category III; LC_{50} (4–hour)=6.03 mg/L (male), 6.28 mg/L (female)

iv. *Primary eye irritation, rabbit.* Toxicity Category IV; no irritation.

v. *Primary dermal irritation, rabbit.* Toxicity Category IV; no irritation.

vi. *Dermal sensitization, guinea pig.* Waived because no sensitization was seen in guinea pigs dosed with the end-use product Poast (18% active ingredient).

2. *Genotoxicity.* Ames assays were negative for gene mutation in *Salmonella typhimurium* strains TA98, TA100, TA1535, and TA 1537, with and without metabolic activity. A Chinese hamster bone marrow cytogenetic assay was negative for structural chromosomal aberrations at doses up to 5,000 mg/kg in Chinese hamster bone marrow cells *in vivo*. Recombinant assays and forward mutations tests in *Bacillus subtilis, Escherichia coli,* and *S. typhimurium* were all negative for genotoxic effects at concentrations of greater than or equal to 100%.

3. *Reproductive and developmental toxicity.* A 2–generation reproduction study with rats fed diets containing 0, 150, 600, and 3,000 ppm (approximately 0, 7.5, 30, and 150 mg/kg/day) with no reproductive effects observed under the conditions of the study.

A developmental toxicity study in rats fed dosages of 0, 50, 180, 650, and 1,000 mg/kg/day with a maternal NOAEL of 180 mg/kg/day and a maternal LEL of 650 mg/kg/day (irregular gait, decreased activity, excessive salivation, and anogenital staining); and a developmental NOAEL of 180 mg/kg/day, and a developmental LEL of 650 mg/kg/day (21 to 22% decrease in fetal weights, filamentous tail, and lack of tail due to the absence of sacral and/or caudal vertebrae, and delayed ossification in the hyoids, vertebral centrum and/or transverse processes, sternebrae and/or metatarsal, and pubes).

A developmental toxicity study in rabbits fed doses of 0, 80, 160, 320, and 400 mg/kg/day with a maternal NOAEL of 320 mg/kg/day and a maternal LOEL of 400 mg/kg/day (37% reduction in body weight gain without significant differences in group mean body weights and decreased food consumption during dosing); and a developmental NOAEL greater than 400 mg/kg/day (highest dose tested).

4. *Subchronic toxicity.* A 21–day dermal study in rabbits with a No-Observed-Adverse-Effect-Level (NOAEL) of > 1,000 mg/kg/day (limit dose). The only dose-related finding was slight epidermal hyperplasia at the dosing site in nearly all males and females dosed at 1,000 mg/kg/day. This was probably an adaptive response.

5. *Chronic toxicity.* A 1–year feeding study with dogs fed diets containing 0, 8.86/9.41, 17.5/19.9, and 110/129 mg/kg/day (males/females) with a No-Observed-Adverse-Effect-Level (NOAEL) of 8.86/9.41 mg/kg/day (males/females) based on equivocal anemia in male dogs at the 17.5-mg/kg/day dose level.

A 2–year chronic feeding/carcinogenicity study with mice fed diets containing 0, 40, 120, 360, and 1,080 ppm (equivalent to 0, 6, 18, 54, and 162 mg/kg/day) with a systemic NOAEL of 120 ppm (18 mg/kg/day) based on non-neoplastic liver lesions in male mice at the 360–ppm (54 mg/kg/day) dose level. There were no carcinogenic effects observed under the conditions of the study. The maximum tolerated dose (MTD) was not achieved in female mice. The need for a new study will be based on the adequacy of the rat study currently under review.

A 2–year chronic feeding/carcinogenic study with rats fed diets containing 0, 2, 6, and 18 mg/kg/day with a systemic NOAEL greater than or equal to 18 mg/kg/day (highest dose tested). There were no carcinogenic

effects observed under the conditions of the study. This study was reviewed under current guidelines and was found to be unacceptable because the doses used were insufficient to induce a toxic response and an MTD was not achieved.

A second chronic feeding/carcinogenic study with rats fed diets containing 0, 360, and 1,080 ppm (equivalent to 18.2/23.0, and 55.9/71.8 mg/kg/day (males/females). The dose levels were too low to elicit a toxic response in the test animals and failed to achieve an MTD or define a lowest effect level (LEL). Slight decreases in body weight in rats at the 1,080–ppm dose level, although not biologically significant, support a free-standing NOAEL of 1,080 ppm (55.9/71.8 mg/kg/day (males/females)). There were no carcinogenic effects observed under the conditions of the study.

A third chronic feeding/carcinogenicity study has been submitted. Male and female rats were dosed at nominal concentrations of 0, 300, 1,000, and 3,000 ppm. Clinical findings at the high-dose included changes in food consumption, food efficiency, and body weight; and liver pathology. Upon initial review, it appears that the dose selection was adequate, and that there was no evidence of carcinogenicity.

6. *Animal metabolism*. In a rat metabolism study, excretion was extremely rapid and tissue accumulation was negligible.

B. Toxicological Endpoints

1. *Acute toxicity*. In a rat developmental study rats received doses of 0, 50, 180, 650, and 1,000 mg/kg/day. The maternal toxicity NOAEL was 180 mg/kg/day and the LOEL was 650 mg/kg/day based on irregular gait, decreased activity, excessive salivation, and ano-genital staining. For developmental toxicity the NOAEL was 180 mg/kg/day and the LOEL was 650 mg/kg/day based on 21–22% decrease in fetal weights, filamentous tail and lack of tail due to the absence of accral and/or caudal vertebrae, and delayed oss ification in the hyoids, vertebral centrum and/or transverse processes, sternebrae and/or metatarsal, and pubes. The endpoint for use in the risk assessment is the maternal NOAEL of 180 mg/kg/day. The endpoint is set on maternal effects because the NOAEL for developmental effects is also 180 mg/kg/day.

2. *Short- and intermediate-term toxicity*. No short or intermediate dermal or inhalation endpoints were identified. In a 21–day dermal study with rabbits dosed at 0, 40, 200, and 1,000 mg/kg/day, there was no evidence of compound related toxicity on clinical signs, body weights, food consumption, food efficiency, eye health, clinical pathology, organ weights, or gross pathology. The NOAEL was greater than 1,000 mg/kg/day (limit dose). In the acute inhalation study with rats the LC_{50} was 6.03 mg/l (males) and 6.28 mg/l (females placing sethoxydim in Category IV.

3. *Chronic toxicity*. EPA has established the Reference dose (RfD) for sethoxydim at 0.09 mg/kg/day. This RfD is based on a finding of equivocal anemia in the 1–year dog study. The NOAEL was 8.86 mg/kg in males and 9.41 mg/kg in females.

4. *Carcinogenicity*. Sethoxydim is not classified. Avialable studies show no evidence of carcinogenicity in rats or mice.

C. Exposures and Risks

1. *From food and feed uses*. Tolerances have been established (40 CFR 180.412) for the combined residues of 2-[1-(ethoxyimino]butyl)-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide), in or on a variety of raw agricultural commodities. Tolerances are established on cattle, goats, horses, and sheep meat, fat, and meat by products at 0.2 ppm, eggs at 2.0 ppm, poultry meat and fat at 0.2 ppm and poultry meat by products at 2.0 ppm. Risk assessments were conducted by EPA to assessed dietary exposures from sethoxydim as follows:

i. *Acute exposure and risk*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The acute dietary endpoint is 180 mg/kg/day based on NOAELs of 180 mg/kg/day for maternal and developmental effects in the rabbit developmental study. The FQPA safety factor of 3x was applied to females 13+ years old only because the endpoint (based on decrease in fetal weights, filamentous tail and lack of tail due to absence of sacral and/or caudal vertebrae, delayed ossification in the hyoids, vertebral centrum and/or transverse processes, sternebrae and/or metatarsal) occurs only during *in utero* exposure and is not a postnatal effect. Since the effects occur during *in utero* exposure, it is not an appropriate endpoint for acute dietary risk assessment of infants and children.

In conducting this acute dietary risk assessment, the Agency made very conservative assumptions 100% of all commodities having sethoxydim tolerances will contain sethoxydim regulable residues and those residues will be at the level of the tolerance which result in an over estimation of human dietary exposure.

From the acute dietary (food only) risk assessment, a high-end exposure estimate of 0.2 mg/kg/day was calculated. This exposure yielded dietary (food only) MOEs ranging from 420 for childern (1–6 years old) to 622 for female 13+ years old and greater than 500 for all other subgroups.

ii. *Chronic exposure and risk*. The FQPA Safety Factor will not be applied for chronic dietary risk assessment because the endpoint is based on anemia in male dogs. The endpoint for which the FQPA safety factor is based is an *in utero* effect and can not result from postnatal exposure. There was no indication of increased susceptibility in the prenatal developmental study in rabbits following *in utero* exposure. In the 2–generation reproduction study in rats, effects in offspring were observed only at above treatment levels which resulted in evidence of appreciable parental toxicity. No incresed susceptibility was demonstrated in the developmental toxicity study with rats when the maternal and developmnetal NOAEL/LOELs were compared.

In conducting this chronic dietary risk assessment, The Agency has made very conservative assumptions no percent crop-treated data were used and all commodities having sethoxydim tolerances will contain sethoxydim residues ans those residues will be at the level of the tolerance which will result in an overestimate of human dietary exposure.

The sethoxydim tolerances (published and pending) result in a Theoretical Maximum Residue Contribution (TMRC) that is equivalent to the following percentages of the RfD:

Subgroup	TMRC	Percent RFD
U.S. Population	0.039187	44
Nursing Infants	0.018957	21
Non-Nursing Infants (< 1 year old)	0.072949	81
Children (1–6 years old)	0.085308	95
Children (7–12 years old)	0.058101	65
Female (13+, nursing)	0.040144	45
Males (13–19 years old)	0.040429	45
U.S Population (Summer Season)	0.039408	44
Hispanics	0.039428	44
Non-Hispanic Others	0.040452	45
Non-Hispanic Whites	0.039238	44

The subgroups listed above are (1) the U.S. population (48 states); (2) those for infants, children, females, 13+ nursing;

and other subgroups for which the percentage of RfD occupied is greater than occupied by the subgroup U.S. population

iii. *Chronic, carcinogenic risk*. Sethoxydim has not been classified. At the present time, studies do not show evidence of carcinogenitcy in rats or mice.

2. *From drinking water*. Limited monitoring data of ground water and surface water are available for sethoxydim. The modeling data found maximun concentrations in ground wate of 0.84 micrograms/liter (µg/L) and in surface water 59.4 µg/L and 56–day EECs of 37.3 µg/L. The modeling data were compared to the results of the following equations used to calculate acute and chronic drinking water level of concern (DWLOC) for sethoxydim in ground and surface water (SOP for Drinking Water Exposure and Risk Assessments, 11/20/97). Models used were SCI-GROW and GENEC to provide estimates of ground and surface water contamination respectively from sethoxydim, but did not consider the behavior of degradates. Agency default weights and water consumption used in the calculations were 70kg(2L) for adult males, 60 kg(2L) for adult females, and 10 kg (1L) for child.

i. *Acute exposure and risk*. Based on acute dietary exposure and using default body weights and water consumption values stated above, acute DWLOC were calculated using the following equation.

DWLOC (acute)=(NOAEL divided by uncertainty factor)- (Acute food + residential exposure(mg/kg/day) x (body weight)divided by consumption(L) x 10^{-3} mg/µg

Acute dietary water levels of concern were calculated to be 525,000 µg/L for the U.S. population, 56,000 µg/L for adult males 13+ years old, 12,000 µg/L for adult females 13+ years old (including 3x safety factor) and 14,000 µg/L for child (infant < 1 year old).

ii. *Chronic exposure and risk*. Based on chronic dietary (food) exposure and using default body weights and water consumption values above the chronic DWLOC for drinking water were calculated using the following equation:

DWLOC (chronic) = RfD - (chronic food + residential exposure (mg/kg/day 0 x (body weight) divided by consumption (L) x 105-3 mg/µg

Chronic DWLOCs were calculated to be 1,760 µg/L for the U.S. population, 1,780 µg/L for adult males 13–19 years old, 1,700 for adult female 13+ years old, nursing and 135 for child (1–6 years old).

The above calculations indicate that the exposure to sethoxydim in drinking water using the modeling data are below the calculated drinking water level of concern for all populations.

3. *From non-dietary exposure*. sethoxydim is currently registered for use on the following residential non-food sites: ornamentals and flowering plants, recreational areas, and buildings/structures (non-agricultural-outdoor). These residential uses compromise a short- and intermediate-term exposure scenario, but does not comprise a chronic exposure scenario.

i. *Acute exposure and risk*. There is a potential for exposure to sethoxydim by homeowner mixers/applicators. However, since endpoints for dermal or inhalation were selected, therefore the use on residential non-food sites is not expected to pose an unaccpetable acute risk.

ii. *Chronic exposure and risk*. The registered uses for sethoxydim do not comprise a chronic exposure scenario. A chronic non-dietary endpoint was not selected, therefore the use on residental non-food sites is not expected to pose an unacceptable chronic risk.

iii. *Short- and intermediate-term exposure and risk*. Short term or intermediate term endpoints were not identified. However, the following scenarios may result if herbicides containing sethoxydim are applied to residential turf, and/or ornamental plants: incidental non-dietary ingestion of residues on lawns from hand-to-mouth transfer, ingestion of pesticide-treated turfgrass, and incidental ingestion of soil from treated lawns. A residential exposure estimate and risk assessment was conducted for post application exposure following the application of sethoxydim on turf and ornamental gardens. The acute dietary endpoint was used for this risk assessment because the acute dietary endpoint provides the worst case estimate of risk and exposure for these use patterns. The assessment was performed using Draft SOPs for Residential Exposure Assessments (12/18/98). The proposed post-application aggregate exposure assessment takes into account chronic dietary exposure plus outdoor residential exposures. These exposure assessments assume that 20 % of the application rated is available from the turf grass as dislodgeable residue and 2 hours as the duration of exposure. These assumptions are considered conservative and protective.

Exposures and margins of exposures (MOEs) were calculated to be 0.053 mg/kg/day (MOE of 3,400) for hand-to-mouth transfer for treated lawns (toddlers), 0.0012 mg/kg/day (MOE of 150,000) for ingestion of treated turf grass (toddler), and 0.000025 (MOE of 7 million) for incidental ingestion of soil (toddlers). MOEs exceeded 100 for all three scenarios. MOEs greater or equal to 100 do not exceed the Agencys level of concern.

4. *Cumulative exposure to substances with common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether sethoxydim has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, sethoxydim does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that sethoxydim has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the Final Rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk*. Using the published and pending tolerances, the dietary (food only) acute MOEs range from 420 for childern (1–6 years old) to 622 tor females 13+ years old. The level of concern for females 13 + years old is 300 for acute sethoxydim exposure (3X safety factor) and 100 for all other population subgroups. This risk estimate should be viewed as highly conservative; refinement using anticipated residue values and percent crop treated data in conjunction with Monte Carlo analysis will result in a lower acute dietary exposure estimate. The dietary exposure does not exceed the Agency's level of concern.

Sethoxydim is a non persistent, but highly mobile compound in soil and water environments. The modeling data for sethoxydim in drinking water indicate levels less than OPP's DWLOC for acute exposure. Since a refined acute risk for food only would not exceed EPAs levles of concern for acute dietary exposures and the monitoring and modeling levels in water are less than the acute DWLOC, EPA does not expect

aggregate acute exposure to sethoxydim will pose an unacceptable risk to human health.

2. *Chronic risk*. Using the TMRC exposure assumptions described in this preamble, EPA has concluded that aggregate exposure to sethoxydim from food will utilize 44% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is 95% for childern 1–6 years old; discussed below. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to sethoxydim in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to sethoxydim residues.

3. *Short- and intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Endpoints for short- or intermediate-term were not selected. An aggregate exposure estimate and risk assessment was conducted for post-application exposure to sethoxydim on turf and ornamental plants taking into account chronic exposure form food and the acute dietary NOAEL. The resulting MOEs (1,390–2,350) are not of concern to the Agency.

4. *Aggregate cancer risk for U.S. population*. Sethoxydim has not been classified. Available studies do not show evidence of carcinogenicity in rats or mice.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to sethoxydim residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— i. *In general*. In assessing the potential for additional sensitivity of infants and children to residues of sethoxydim, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure and gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined inter- and intra-species variability)) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Pre- and post-natal sensitivity*. There was no indication of increased susceptibility in the prenatal developmental toxicity study in rabbits following *in utero* exposure. In the 2–generation reproduction study in rats, effects in the offspring were observed only at or above treatment levels which resulted in evidence of appreciable parental toxicity. No increased susceptibility was demonstrated in the developmental toxicity study with rats when the maternal and developmental NOAELs/LOELs were compared; developmental toxic effects, however, were observed at the highest dose tested (LOEL).

Acceptable developmental toxicity studies have been performed in rats and rabbits; an acceptable 2–generaton reproduction study has also been performed in rats. A chronic feeding/carcinogenicity guideline study in rats has been submitted and is currently undergoing review. An initial examination of the study supports the current findings of no evidence of carcinogenicity. There is a complete toxicity data base for sethoxydim and exposure data is complete or is estimated based on data that reasonaby accounts for potential exposures.

The FQPA safety factor is to be retianed in case of developmental toxicity in the absence of maternal toxicity. Since malformations were seen in the rat study at levels that produced minimal maternal toxicity, the Agency concluded that an FQPA factor is needed. However, it was determined that the 10X factor need not be retained, instead should be reduced to 3X based on the following weight of evidence considerations:

a. Developmental toxicity was seen in only one species, in the presence of maternal toxicity, and at a very high dose (650 mg/kg/day) that approached the Limit-Dose of 1,000 mg/kg/day.

b. No developmental toxicity was observed in the rabbit study at the highest dose tested (400 mg/kg/day).

c. There was no increased susceptibility seen in the 2–generation reproduction study in rats at doses up to 150 mg/kg/day(highest dose tested).

d. Lack of concern for structure activity relationship (i.e. no significant developmental or reproductive toxicity was seen with the structural analog, Clethodim.)

Exposure assessments do not indicate a concern for potential risk to infants and children based on; (1) the dietary exposure assessments use field study data and assume 100% crop treated which results in an overestimate of dietary exposure; (2) limited monitoring data is used for ground and surface source drinking water exposure assessments, resulting in estimates considered to be reasonable upper-bound concentrations; (3) there is a potential for post-application hand-to-mouth exposure to toddlers associated with lawn use, however, the use of conservative models and/or assumptions in the residential exposure assessment provide adequate protection of infants and children.

The FQPA safety factor is applicable for acute dietary risk assessment for females 13+ years old because the endpoint occurs only during *in utero* exposure and is not a postnatal effect. Since the effects occur during *in utero* exposure, it is not an appropriate endpoint for acute dietary risk assessment of infants and children. The FQPA safety factor is not applied for chronic risk assessment because the endpoint is an *in utero* effect and can not result from postnatal exposure. The FQPA safety factor is not applicable to the post-application hand-to-mouth exposure associated with the lawn use since this exposure scenario would only be expected for toddlers and not for females 13+ years old.

iii. *Conclusion*. Acceptable developmental toxicity studies have been performed in rats and rabbits; an acceptable 2–generation reproduction study has also been performed in rats. A chronic feeding/carcinogenicity guideline study in rats has been submitted and is currently undergoing review. An initial examination of the

study supports the current findings of no evidence of carcinogenicity. There is a complete toxicity data base for sethoxydim and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures.

2. *Acute risk*. Using the conservative exposure assumptions that 100% of the commodities having sethoxydim tolerances will contain sethoxydim regulable residues and that those residues will be at the level of the tolerance, EPA calculated from the acute dietary (food only) MOEs ranging from 420 for childern (1–6 years old) to 622 for females 13+ years old. The level of concern is 300 (3x safety factor x 100) for females 13+ years old and 100 for all other subgroups.

3. *Chronic risk*. Using the exposure assumptions described above, EPA has concluded that aggregate exposure to sethoxydim from food will utilize 21% for nursing infants, 81% for non-nursing infants (< 1 years old), 95% for children (1–6 years old), and 65 % for children (7–12 years old) of the RfD. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to sethoxydim in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

4. *Short- or intermediate-term risk*. An aggregate exposure estimate and risk assessment was conducted for post-application exposure to sethoxydim on turf and ornamental plants taking into account chronic exposure from food and the acute dietary NOAEL. The resulting MOEs (1,390–2,350) are not of concern to EPA.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to sethoxydim residues.

III. Other Considerations

A. Metabolism in Plants and Animals

In the rat metabolism study, tissue accumulation was neglible and excretion was extremely rapid. Elimination was 78.5% in the urine and 20.2% in the feces.

The metabolism of sethoxydim in plants and animals is understood, The tolerances for plant and animal commodities are expressed as the combined residues of sethoxydim and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide).

B. Analytical Enforcement Methodology

BASF Method 30 as published in PAM,Vol II is adequate for tolerance enforcement in all raw agricultural commodities. Quantitation is accomplished by gas chromatography with flame photometric detection in the sulfur mode. sethoxydim and its metabolites are not recovered or not likely to be recovered by FDA multi-residue methods.

C. Magnitude of Residues

The available crop field trial data support the establishment of tolerances in globe artichoke at 5.0 ppm; apricots at 0.2 ppm; beans, forage at 15.0 ppm; beans, succulent at 15.0 ppm; beets, garden at 1.0 ppm; caneberries, crop subgroup at 5.0 ppm; cherries (sweet and sour) at 0.2 ppm; cilantro at 4.0 ppm; grapes at 1.0 ppm; leafy vegetable (except Brassica) at 4.0 ppm; nectarines at 0.2 ppm; peaches at 0.2 ppm; raisins at 2.0 ppm; soybeans at 16.0 ppm; and tuberous and corm vegetables at 4.0 ppm.

The available data support the deletion of the established tolerances for grape pomace (wet and dry at 6.0 ppm and raisin waste at 1.0 ppm because they are considered insignificant animal feed commodities and are no longer of regulatory concern.

The available data support deletion of the existing tolerances for celery at 1.0 ppm; lettuce, leaf at 1.0 ppm; lettuce, leaf at 2.0 ppm; spinach at 4.0 ppm; endive at 2.0 ppm; potato at 4.0 ppm; sweet potato at 4.0 ppm; and raspberry at 5.0 ppm; since these commodities are members of crop groups or subgroups for which tolerances are being established.

D. International Residue Limits

There are no Codex maximum Residue Levels (MRLs) in effect for sethoxydim. However, there are Canadian MRLs based on the cyclohex-1-one moiety calculated as sethoxydim: beans, peas, soybeans, and lentils at 0.5. 0.5, 5.0 and 4.0 ppm, respectively. There are also Mexican MRLs based on sethoxydim: grapes, soybeans, lettuce, potatoes, celery, lentils, spinach, beans, and peas(green) at 1.0, 10.0, 1.0, 4.0, 1.0, 30.0, 4.0, 20.0, and 10.0 ppm, respectively. The Canadian tolerances on various legume vegetables are significantly less than needed to cover residues in the United States. Many of the Mexican MRLs are the same as the United States. EPA is increasing the grape tolerance to 1.0 ppm to match Mexico‘s MRL.

E. Rotational Crop Restrictions

Tolerances on rotational crops are not necessary for crops planted greater than 30 days after the primary crop is treated with sethoxydim.

IV. Conclusion

Therefore, tolerances are established for combined residues of 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in apricot at 0.2 ppm; globe artichoke at 5.0 ppm; beans, forage at 15.0 ppm; bean, succulent at 15.0 ppm; beet, garden at 1.0 ppm; caneberries crop subgroup at 5.0 ppm; cherries (sweet and sour) at 0.2 ppm; cilantro at 4.0 ppm; grapes at 1.0 ppm; leafy vegetable (except Brassica) at 4.0 ppm; nectarines at 0.2 ppm; peaches at 0.2 ppm; raisin at 2.0 ppm; soybean at 16.0 ppm; and tuberous and corm vegetable crop subgroup at 4.0 ppm. The current listing for artichoke is being corrected to read as globe artichoke to reflect current terminology. Established tolerances for celery at 1.0 ppm; endive at 2.0 ppm; grape pomace (wet and dry) at 6.0 ppm; lettuce, head at 1.0 ppm; lettuce, leaf at 2.0 ppm; potato at 4.0; raisin waste at 1.0 ppm; raspberry at 6.0 ppm; spinach at 4.0 ppm; and sweet potato at 4.0 ppm are being revoked.

V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ‘‘object’’ to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by December 7, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions

of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee or a request for a fee wavier as prescribed by 40 CFR 180.33. If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300739] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

VII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected

officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 29, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180— AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.412 is amended as follows:

a. In the table to paragraph (a):

i. By removing the entries for celery; grape pomace (wet and dry); lettuce, head; lettuce, leaf; potatoes; raisin waste; raspberries; spinach; and sweet potato.

ii. By revising the entries for beans, forage; beans, succulent; grapes; raisins; and soybeans.

iii. By adding entries for apricots; beet, garden; caneberries crop subgroup; cherries (sweet and sour); cilantro; leafy vegetable (except Brassica) crop group; nectarines; peaches; and tuberous and corm vegetables crop subgroup.

b. In the table to paragraph (c) by removing the entry for endive, and by revising the entry for artichokes.

The added and revised portions read as follows:

§ 180.412 Sethoxydim; tolerances for residues.

(a) *General.* ***

Commodity	Parts Per Million	Expiration/ Revocation date
* * *	*	*
Apricots	0.2	None
* * *	*	*
Beans, forage	15.0	None
Beans, succulent	15.0	None
Beet, garden	1.0	None
* * *	*	*
Caneberries crop subgroup	5.0	None
* * *	*	*
Cherries (sweet and sour)	0.2	None
Cilantro	4.0	None
* * *	*	*
Grapes	1.0	None
* * *	*	*
Leafy vegetable (except Brassica) crop group	4.0	None
* * *	*	*
Nectarines	0.2	None
Peaches	0.2	None
* * *	*	*
Raisins	2.0	None
* * *	*	*
Soybeans	16.0	None
* * *	*	*
Tuberous and corm vegetable crop subgroup	4.0	None

* * * * *

(c) *Tolerances with regional registrations.* ***

Commodity	Parts Per Million	Expiration/ Revocation date
Globe artichoke	5.0	None
* * *	*	*

* * * * *

FR Doc. 98–26905 Filed 10–7–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 20, 95, and 97

[WT Docket No. 98–169; WT Docket No. 95–47; FCC 98–228]

Frequencies in the 218–219 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This rule is part of the Commission's comprehensive examination of its regulations governing the licensing and use of frequencies in the 218–219 MHz band, allocated to the Interactive Video and Data Service (IVDS) in the Personal Radio Services. In this rule, the Commission addresses issues regarding the IVDS installment payment portfolio and redesignates this service as the ''218–219 MHz Service,'' and resolves matters raised in petitions for reconsideration.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Bob Allen at (202) 418–0660 (Auctions & Industry Analysis Division) or James Moskowitz at (202) 418–0680 (Public Safety & Private Wireless Division), Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This *Order,* and *(MO&O),* in WT Docket No. 98–169, RM–8951, adopted September 15, 1998, released September 17, 1998, is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street, N.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800.

Synopsis of Order and Memorandum Opinion and Order

I. Introduction And Background

1. IVDS is a point-to-multipoint, multipoint-to-point, short distance communications service in which licensees may provide information or services to individual subscribers within a service area, and subscribers may provide interactive responses. See 47 CFR 95.803(a). These systems use radio channels in the 218–219 MHz band for fixed and mobile services between the licensee's cell transmitter station (CTS) and the subscriber's response transmitter unit (RTU), or between two CTSs.

2. IVDS was established in response to a petition for rulemaking filed by TV Answer, Inc. (TV Answer) (now known

as EON Corporation (EON)), a company proposing a system that would provide interactivity capabilities to television viewers. See *Notice of Proposed Rule Making,* 56 FR 10222 (March 11, 1991) (''*Allocation Notice*''). In the *Report and Order,* 57 FR 8272 (March 9, 1992) (''*1992 Allocation Report and Order*'') the Commission established a frequency allocation at 218–219 MHz for IVDS, allowing a 500 kilohertz frequency segment to two licensees in each of the 734 cellular-defined service areas (306 Metropolitan Statistical Areas (MSAs) and 428 Rural Service Areas (RSAs)). When the Commission adopted the service rules governing IVDS in the *1992 Allocation Report and Order,* it decided, *inter alia,* to regulate IVDS as a private radio service, and to establish licensing criteria such as a five-year license term, restrictions on ownership of both frequency segments in a given market, and construction benchmarks. The Commission designed technical requirements that would permit the spectrum allocation for IVDS as sought by TV Answer and reduce the potential for harmful interference to nearby operations, including reception of TV Channel 13 broadcasts in the 210–216 MHz band. The Commission later modified the IVDS construction benchmark scheme, *Report and Order,* 61 FR 1286 (January 19, 1996), (''*One-Year Construction Report and Order*''), and, in its *Mobility Report and Order,* the Commission authorized use of this spectrum to provide mobile as well as fixed operation.

3. In the Omnibus Budget Reconciliation Act of 1993 (*1993 Budget Act*), Congress authorized the Commission to award licenses for certain spectrum-based services by competitive bidding (i.e., auctions). In the *Second Report and Order,* 59 FR 22980 (May 4, 1994) (''*Competitive Bidding Second Report and Order*''), on recon., *Second Memorandum Opinion and Order,* 59 FR 44272 (August 26, 1994), the Commission determined that IVDS licenses should be awarded through competitive bidding, and prescribed certain general rules and procedures to be used for all auctionable services. In the *Fourth Report and Order,* 59 FR 24947 (May 13, 1994) (''*Competitive Bidding Fourth Report and Order*''), the Commission established specific auction procedures for IVDS, setting forth auction methodology and payment procedures, and incorporating by reference many of the general rules and procedures set forth in the *Competitive Bidding Second Report and Order,* such as the installment payment and associated grace period rules. In addition, the *Competitive Bidding Fourth Report and Order* established provisions such as installment payments to ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women (collectively, ''designated entities'') are afforded a meaningful opportunity to participate in IVDS auctions. More recently, in the *Third Report and Order,* 63 FR 2315 (January 15, 1998) (''*Part 1 Third Report and Order*''), the Commission streamlined the general competitive bidding procedures to provide a uniform set of Part 1 provisions to be applied to all auctionable services, including IVDS. The new Part 1 license-related payment rules apply to existing IVDS licensees effective March 16, 1998.

4. The first eighteen IVDS system licenses (two licenses in nine of the top ten MSAs) were awarded by lottery held September 15, 1993, and granted on March 28, 1994. Subsequently, utilizing the procedures adopted in the *Competitive Bidding Fourth Report and Order,* the Commission held the first auction for IVDS licenses on July 28 and 29, 1994, covering the remaining 594 MSA licenses. On January 18, 1995 and February 28, 1995, the Commission conditionally granted licenses to the winning bidders, subject to the bidder meeting the terms of the auction rules, including down payment requirements.

5. On September 4, 1996, Petitioners filed a Petition for Rulemaking, RM–8951, seeking a change in the IVDS license term from five to ten years, with a corresponding extension of installment payment amortization. The Petition for Rulemaking was later amended with requests for regulatory relief on other issues such as construction benchmarks, ownership limitations, and technical restrictions. The Commission received no comments in opposition to the Petition for Rulemaking.

6. On December 4, 1996, the Wireless Telecommunications Bureau (''Bureau'') announced a February 18, 1997 start date for an auction of 981 IVDS licenses, consisting of the 856 RSA licenses, and 125 MSA licenses being reauctioned because the first auction winners were found in default. Then, on January 29, 1997, the Bureau announced postponement of the IVDS auction, ''to give the Commission an opportunity to consider [the] Petition for Rulemaking and numerous informal requests of potential bidders and license holders seeking to obtain additional flexibility for the service.''

II. Order

7. In authorizing the use of auctions to award licenses, Congress directed the Commission to ensure that designated entities are given the opportunity to participate in the provision of spectrum-based services. In accordance with this statutory mandate, the Commission's competitive bidding rules for the first auction of IVDS licenses allowed winning bidders that qualified as small businesses to pay 20 percent of their net bid price(s) as a down payment and the remaining 80 percent in installments over the five-year term of the license(s), with interest only paid for the first two years, and interest and principal payments amortized over the remaining three years. The first interest payment, due March 31, 1995, was deferred to June 30, 1995 pursuant to administrative action by the Office of Managing Director. The Bureau further stayed the date for making the initial interest payment pending Commission resolution of licensees' substantive requests related to the payment requirements. The stay was lifted on January 5, 1996, with licensees required to make the interest payments back-due from March 31, 1995 and June 30, 1995. Although the interest payments due September 30, 1995 and December 31, 1995 remained uncollected (hereinafter, the ''Suspension Interest''), the Commission denied requests to ''set-back'' the payment schedule. Therefore, the first installment payment consisting of principal and interest was due March 31, 1997.

8. Pursuant to the installment payment rules in effect for payments due prior to March 16, 1998, any licensee whose installment payment was more than 90 days past due was in default, unless a ''grace period'' request was filed prior to the default date. Specifically, in anticipation of default on one or more installment payments, a licensee could request that the Commission grant a three- to six-month grace period during which no installment payments need be made. The licensee would not be declared in default during the pendency of such request. If the Commission (or the Bureau upon delegated authority) granted the request, the licensee would not be considered in default during the grace period, and the interest that accrued while no payments are made was amortized by adding it to the other interest payments over the remaining term of the license. Upon expiration of any grace period without successful resumption of payment, or upon default with no such request submitted, the license was cancelled automatically.

9. In the *Part 1 Third Report and Order,* the Commission modified the grace period provisions as applied to all existing licensees who are currently paying for their licenses in installments. Thus, beginning with installment payments due on or after March 16, 1998, a licensee that does not make payment on an installment obligation when due will automatically have an additional 90 days in which to submit its required payment without being considered delinquent, but will be assessed a late payment fee equal to five percent of the amount of the past due payment. If the licensee fails to make the required payment within the first 90-day period, the licensee automatically will be provided a subsequent 90 days in which to submit its required payment without being considered delinquent, this time subject to a second, additional late payment fee equal to ten percent of the amount of the past due payment. The licensee is not required to submit a filing to take advantage of these provisions. A licensee who fails to make payment within 180 days after an installment payment due date sufficient to pay all past-due late payment fees, interest, and principal, will be deemed to have failed to make full payment of its obligation and the license shall automatically cancel without further Commission action. The late payment fee and automatic cancellation provisions described above do not apply to licensees with properly filed grace period requests until such time as the Commission (or the Bureau upon delegated authority) addresses these grace period requests.

10. As of March 16, 1998, the effective date of the revised grace period rule, the IVDS installment payment portfolio consisted of licensees that have remitted their requisite installment payments, licensees that have not remitted their requisite installment payments but have properly filed grace period requests under the former installment payment rules, and licensees that have not remitted their requisite installment payments and do not have grace period requests on file in conformance with the former rules. Petitioners request that the Commission forego acting on the pending grace period requests and waive the late payment fee and automatic cancellation provisions of the revised installment payment rules for IVDS licensees until resolution of the proposals set forth in the Petition for Rulemaking, RM–8951, in an initial Report and Order. In addition, the Commission has before it several requests from IVDS licensees for broader relief associated with the installment payment program. Some licensees seek more modest relief, generally associated with the pendency of this rulemaking. Other licensees request various types of payment deferral and/or restructuring.

11. The Commission believes that widespread cancellation of IVDS licenses through operation of the late payment fee and automatic cancellation provisions of the revised grace period rule would be inconsistent with many of the proposals under consideration in the Petition for Rulemaking, RM–8951. Therefore, the Commission will grant Petitioners' request to the extent that it will not act on grace period requests until the rulemaking is resolved. Since the late payment fee and automatic cancellation provisions of the revised grace period rule do not apply to licensees with properly filed grace period requests until such time as those grace period requests are addressed, there is no reason to grant a service-wide waiver of those provisions as Petitioners request. The Commission also believes that IVDS licensees that have remitted adequate installment payments as of March 16, 1998, and thus did not have grace period requests on file when the revised rules took effect, should not be penalized through the operation of the late payment fee and automatic cancellation provisions of the revised grace period rule, insofar as the Commission will need time to evaluate the issues raised in the Petition for Rulemaking, RM–8951. Therefore, for those licensees, the Commission suspends the operation of the late payment fee and automatic cancellation provisions of the revised grace period rule during the pendency of the rulemaking. In sum, the Commission will not assess late payment fees or cancel any IVDS license for which a properly filed grace period request is pending, or for which adequate installment payments were made as of March 16, 1998, until resolution of the issues raised in the Petition for Rulemaking, RM–8951, in an initial Report and Order. Licensees that have been delinquent in payment without properly filed grace period requests are in default of their payment obligations and will be notified by the Bureau regarding debt collection procedures.

12. All other requests for payment deferral or restructuring that are inconsistent with this *Order,* are hereby denied. The Commission concludes that it is reluctant to adopt any solutions that will only postpone these payment difficulties and further prolong uncertainty. In that regard, the Commission reminds licensees that there is no suspension of the requirement to make quarterly payments under its installment payment rules, irrespective of its actions today, and that the Commission will strictly enforce the late payment fee and automatic cancellation provisions of the revised grace period rule beginning with the first payment due upon resolution of the issues raised in the Petition for Rulemaking, RM 89–51, in an initial Report and Order.

I. Memorandum Opinion And Order

13. On May 16, 1996, the Commission adopted the *Mobility Report and Order,* in which the Commission amended its rules to authorize mobile in addition to fixed operation for IVDS RTUs operated with an effective radiated power (ERP) of 100 milliwatts or less. The Commission decided that the output power of these mobile RTUs could be measured in terms of ''mean power'' rather than ''peak power,'' and the Commission eliminated the requirement that such units utilize automatic power controls. In addition, the Commission eliminated the IVDS duty cycle requirement for RTU operations outside of TV Channel 13 predicted Grade B contours. Finally, the Commission permitted direct CTS-to-CTS communications on a primary basis, enabling licensees to transmit point-to-point communications between fixed points within their systems. The Commission found that these amendments would provide additional flexibility for licensees to meet the communications needs of the public, which the record indicated may include commercial data distribution and inventory monitoring services, without increasing the likelihood of interference. Timely petitions for reconsideration of the *Mobility Report and Order* were filed by Euphemia Banas, et al. (Banas) and the National Association of Broadcasters (NAB); and ITV/IALC timely filed a Request for Clarification. The Commission addresses these filings below.

A. Service Designation

14. As a threshold matter, given the regulatory flexibility provided to 218–219 MHz band licensees in the *Mobility Report and Order,* the Commission believes the service designation ''Interactive Video and Data Service'' no longer describes the breadth of different services evolving in the 218–219 MHz band. In addition to radio-based interactive television services, the Commission has noted a myriad of services that licensees can offer, including commercial data applications such as transmission of database information to point-of-sale terminals,

home banking or downloading of data to personal computers, VCRs, or other consumer electronic products. The Commission is also aware of other uses of this spectrum, including two-way telemetry services such as remote meter reading and energy management operations, inventory monitoring services, a link between automatic teller machines and a bank's central computer, alarm security functions, cable television theft deterrence, and stock transaction or quotation services. Indeed, this list of applications is not exhaustive. Therefore, on its own motion, the Commission redesignates this service as the ''218–219 MHz Service,'' to eliminate any confusion regarding the service's existing capabilities. This change in nomenclature is procedural in nature under the Administrative Procedure Act, and consequently, the requirement of notice and comment rulemaking does not apply.

B. Operation of Mobile RTUs

15. As the Commission stated in the *Mobility Report and Order,* by definition, mobility makes it more likely that an RTU will transiently operate in areas where interference may result. The Commission therefore recognized that allowing unrestricted mobile operations may promote flexibility within the service, but it also increases the interference potential with respect to the operation of licensees in other services.

16. The Commission finds Baras' claim that the 100 milliwatt power limit raises the cost and amount of time necessary to construct a network as unpersuasive because 218–219 MHz Service licensees are not required to provide service to mobile RTUs—it is merely one type of service licensees may provide. Moreover, the Commission expects that licensees will factor additional cost considerations into their decision making process concerning what services to provide their subscribers and how much to charge for them. The Commission also disagrees with NAB's request to measure output in terms of peak power rather than mean power. The Commission purposefully chose the mean power measurement for these low power mobile RTUs because it concluded that a mean power standard would provide licensees with greater economic flexibility and efficiency in equipment design, while only insignificantly increasing the risk of interference to TV Channel 13 operations. Nonetheless, the combination of suggestions in the petitions for reconsideration and associated comments leads the Commission to question whether the 100 milliwatt ERP limit may be unnecessarily low. As the record does not provide the empirical data to support a reasonable alternative, the Commission dismisses petitions with respect to the mobile RTU power limit issue and will reexamine the issue as part of the record of the Petition for Rulemaking, RM–8951.

C. Duty Cycle

17. In the *Mobility Report and Order,* the Commission eliminated the duty cycle requirement for: (1) fixed RTUs operating outside a TV Channel 13 predicted Grade B contour; and (2) mobile RTUs operating in system service areas that do not overlap with a TV Channel 13 predicted Grade B contour. In doing so, the Commission noted that in such areas, TV Channel 13 operations have no expectation of protection from interference, thereby rendering the duty cycle restriction unnecessary, and furthermore, that the duty cycle limitation was an additional safeguard against interference rather than one of the principal ways the Commission intended to minimize the interference potential of the 218–219 MHz Service.

18. The Commission believes that NAB's request to expand the area of RTU duty cycle limits at least ten miles further in all directions would burden 218–219 MHz Service technical operations with no attendant public interest benefits. The Commission therefore denies NAB's request that it expand this interference protection requirement to include an area far outside the TV Channel 13 Grade B contour because it is inconsistent with its goal of providing flexibility to licensees to design their systems in the most efficient way. The Commission also denies NAB's request for expanded duty cycle regulations in anticipation of advanced television implementation. This request was fully considered in the *Mobility Report and Order,* in which the Commission stated that it expects that whatever system is adopted will generally be more immune to interference from signals in adjacent spectrum than is the case with current analog TV systems.

D. Limitations on Types of Service

i. CTS-to-CTS Communications and Section 95.861

19. Households receiving over-the-air television broadcasts are provided interference protection from any component of a 218–219 MHz Service system pursuant to Section 95.861 of the Commission's rules. Specifically, under the rule, a 218–219 MHz Service licensee must: (1) notify all households within its service area located within a TV Channel 13 station Grade B predicted contour of the potential for interference to television reception from the 218–219 MHz Service system; (2) upon request, provide and install a filter, free of charge, to any household within a TV Channel 13 station Grade B predicted contour that experiences interference due to a component CTS or RTU; and (3) investigate and eliminate interference to television broadcasting and reception due to a component CTS or RTU within 30 days of receipt of a written interference complaint, and if it fails to do so, the CTS or RTU causing the interference must discontinue operation.

20. The Commission believes that its rules regarding 218–219 MHz Service interference protection requirements are clear. The Commission nonetheless reiterates its policy in response to NAB's request for clarification that the fixed point-to-point direct CTS-to-CTS communications authorized in the *Mobility Report and Order* are subject to these general interference protection regulations. Specifically, all transmissions related to the 218–219 MHz Service, including the CTS-to-CTS communications now permitted under § 95.805(b) of the Commission's rules, are subject to the § 95.861 general interference protections described above.

2. Use of Public Switch Network (PSN) or Commercial Mobile Radio Services (CMRS) for Internal Control Purposes

21. Under the Commission's current rules, mobile RTUs are prohibited from interconnecting with the PSN or CMRS providers.

22. A licensee's use of the PSN or CMRS providers for internal control purposes is not an ''interconnected service.'' Since the Commission's rules do not limit the method by which a 218–219 MHz Service licensee can configure internal control communications, the Commission clarifies that the mobile RTU prohibition on interconnection with the PSN or CMRS providers does not limit a 218–219 MHz Service licensee's use of the PSN or CMRS for internal control purposes. This clarification does not affect the current prohibition on PSN or CMRS interconnection by mobile RTUs operated by 218–219 MHz Service licensees. The Commission previously considered and rejected a contention that the 218–219 MHz band should be developed primarily as an interactive service for use in conjunction with the

broadcast industry. In doing so, the Commission reasoned that consumers, through market forces, should determine the variety of uses for this allocation, whether broadcast-related or otherwise.

ii. Annual Reviews

23. Finally, NAB requested that the Commission undertake annual review of the services provided by 218–219 MHz Service licensees to assure that licensees are not using their facilities for unintended purposes or for services duplicative of services provided by other licensed communications operators. This request is contrary to current FCC policy, which allows the marketplace to develop efficient uses for spectrum and encourages competition between varied communications operators. The Commission believes that such a requirement would constitute unnecessary and burdensome regulation on 218–219 MHz Service licensees and places an undue burden on the agency. Further, such a requirement is unprecedented for a personal radio service, and would serve no regulatory purpose in light of the Commission's proposals regarding permissible uses of this spectrum.

II. Ordering Clauses

24. Authority for issuance of this *Order,* and *Memorandum Opinion and Order* is contained in Sections 4(i), 257, 303(b), 303(g), 303(r), 309(j), and 332(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 257, 303(b), 303(g), 303(r), 309(j), and 332(a).

25. Accordingly, it is ordered that this *Order,* and *Memorandum Opinion and Order* is adopted. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this *Order,* and *Memorandum Opinion and Order,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

26. It is further ordered that all references to ''Interactive Video and Data Service'' in 47 CFR Parts 1, 2, 20, 95, and 97 are to be removed and, in their place, the words ''218–219 MHz Service'' are to be substituted. Pursuant to 47 CFR 0.331(d), the Commission hereby instructs the Wireless Telecommunications Bureau to make conforming edits to the Code of Federal Regulations consistent with this Ordering Clause.

27. It is further ordered that the request of the Petitioners for general waiver of § 1.2110(f)(4) of the Commission's rules, as amended by the *Part 1 Third Report and Order,* is denied. However, a suspension of the application of § 1.2110(f)(4)(i)-(iv), limited to those 218–219 MHz Service licensees that have remitted adequate installment payments as of March 16, 1998, will remain in effect pending Commission resolution of the issues raised in the *Notice of Proposed Rulemaking* in an initial Report and Order.

28. It is further ordered that all other payment relief requests are denied to the extent that they are inconsistent with the actions described above.

29. It is further ordered that, as described above, the petition for reconsideration of the *Mobility Report and Order,* to the extent that it is addressed in the Order is dismissed.

30. It is further ordered that, to the extent described above, the Commission clarifies issues raised in a petition for partial reconsideration and a request for clarification.

31. It is further ordered that the petition for partial reconsideration is dismissed or denied in all other respects.

32. It is further ordered that WT Docket No. 95–47 is terminated.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 2

Communications equipment, Radio

47 CFR Part 20

Communications common carriers, Radio

47 CFR Parts 95 and 97

Radio.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

Parts 1, 2, 20, 95, and 97 of Chapter I of Title of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: 15 U.S.C. 79 *et.seq.;* 47 U.S.C. 151, 154(i), 154(j), 155, 225 and 303(r).

2. All references to ''Interactive Video and Data Service,'' ''Interactive Video and Data Service (IVDS)'', or ''IVDS'' are to be removed and, in their place, the words ''218–219 MHz Service'' are to be substituted.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 307 and 336 unless otherwise noted.

4. All references to ''Interactive Video and Data Service,'' ''Interactive Video and Data Service (IVDS)'', or ''IVDS'' are to be removed and, in their place, the words ''218–219 MHz Service'' are to be substituted.

PART 20—COMMERCIAL MOBILE RADIO SERVICES

5. The authority citation for part 20 continues to read as follows:

Authority: Secs. 4, 251, 252, 303, and 332, 48 Stat. 1066, 1062, as amended; 47 U.S.C. 154, 251, 252, 253, 254, 303, and 332, unless otherwise noted.

6. All references to ''Interactive Video and Data Service,'' ''Interactive Video and Data Service (IVDS)'', or ''IVDS'' are to be removed and, in their place, the words ''218–219 MHz Service'' are to be substituted.

PART 95—PERSONAL RADIO SERVICES

7. The authority citation for part 95 would continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

8. All references to ''Interactive Video and Data Service,'' ''Interactive Video and Data Service (IVDS)'', or ''IVDS'' are to be removed and, in their place, the words ''218–219 MHz Service'' are to be substituted.

PART 97—AMATEUR RADIO SERVICES

9. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

10. All references to ''Interactive Video and Data Service,'' ''Interactive Video and Data Service (IVDS)'', or ''IVDS'' are to be removed and, in their place, the words ''218–219 MHz Service'' are to be substituted.

[FR Doc. 98–26991 Filed 10–7–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Part 237

Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments

CFR Correction

In title 48 of the Code of Federal Regulations, chapter 2, parts 201 to 299, revised as of October 1, 1997, on pages 306 and 307, sections 237.270, 237.270–1, 237.270–2, 237.270–3, and 237.270–4 should be removed from the text and on page 301 these section entries should also be removed from the table of contents.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. RST–90–1, Notice No. 10]

RIN 2130–AA75

Technical Amendments to the Track Safety Standards

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule; corrections.

SUMMARY: The Federal Railroad Administration published in the **Federal Register** of June 22, 1998 (63 FR 33992), a final rule to revise the Track Safety Standards contained in 49 CFR part 213. On August 28, 1998, FRA published a notice of corrections to correct several inadvertent errors which appeared in the final rule (63 FR 45959). This correction notice corrects additional errors since found in the final rule.

DATES: Effective on October 8, 1998.

FOR FURTHER INFORMATION CONTACT: Allison H. MacDowell, Office of Safety Assurance and Compliance, Federal Railroad Administration, 400 Seventh Street, SW., Mail Stop 25, Washington, DC 20590 (telephone: 202–493–6236), or Nancy Lummen Lewis, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Mail Stop 10, Washington, DC 20590 (telephone: 202–493–6047).

SUPPLEMENTARY INFORMATION: FRA published a final rule in the **Federal Register** of June 22, 1998, (63 FR 33992), which, effective September 21, 1998, replaces the Track Safety Standards in 49 CFR part 213. The final rule, however, contained several inadvertent errors which were corrected in a notice published in the **Federal Register** August 28, 1998 (63 FR 45959). The purpose of this notice is to correct two additional errors discovered in the final rule after publication of the August 28 notice.

§ 213.57 [Corrected]

In the final rule, make the following corrections:

On page 34033, remove the first sentence of § 213.57(g)(4), and replace with the following sentence: ''The track owner or railroad operates an instrumented car having dynamic response characteristics that are representative of other equipment assigned to service or a portable device that monitors on-board instrumentation on trains over the curves in the identified track segment at the revenue speed profile at a frequency of at least once every 90-day period with not less than 30 days interval between inspections.''

§ 213.345 [Corrected]

On page 34051, in § 213.345(d), remove ''§ 213.333(k)'' and replace with ''§ 213.333(l)''

Dated: October 5, 1998.

S. Mark Lindsey,

Chief Counsel.

[FR Doc. 98–27024 Filed 10–7–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 092398B]

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna; Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: General category closure.

SUMMARY: NMFS has determined that the 1998 Atlantic bluefin tuna (BFT) General category subquota for the October-December period will be attained by October 5, 1998. Therefore, General category fishery for October-December will be closed effective 11:30 p.m. on October 5, 1998. This action is being taken to prevent overharvest of the adjusted subquota of 116 metric tons (mt) for the October-December period.

DATES: Effective 11:30 p.m. local time on October 5, 1998, through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 301–713–2347, or Pat Scida, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. Section 285.22 subdivides the U.S. quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories.

General Category Closure

NMFS is required, under § 285.20(b)(1), to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of BFT will equal the quota and publish a **Federal Register** announcement to close the applicable fishery.

Implementing regulations for the Atlantic tuna fisheries at 50 CFR 285.22 provide for a subquota of 65 mt of large medium and giant BFT to be harvested from the regulatory area by vessels permitted in the General category during the period beginning October 1 and ending December 31. Due to a total underharvest of 1 mt in the June-August and September period subquotas and to the transfer of 50 mt from other categories (10 mt from the Reserve and 40 mt from the Incidental Longline South quota), the October-December period subquota was adjusted to 116 mt (63 FR 51855, September 29, 1998). Based on reported catch and effort, NMFS projects that this revised subquota will be reached by October 5, 1998. Therefore, fishing for, retaining, possessing, or landing large medium or giant BFT by vessels in the General category must cease at 11:30 p.m. local time October 5, 1998. If, after tallying the landings following the closure, NMFS determines that a substantial amount of quota remains, NMFS may reopen the General category fishery as necessary to allow full harvest of the adjusted October-December subquota.

General category permit holders may tag and release BFT while the General category is closed, subject to the requirements of the tag and release program at 50 CFR 285.27.

The intent of this closure is to prevent overharvest of the October-December period subquota established for the General category. NMFS will announce the opening date of the New York Bight fishery through a separate **Federal Register** notice.

Classification

This action is taken under 50 CFR 285.20(b) and 50 CFR 285.22 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: October 2, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–26925 Filed 10–2–98; 4:06 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 63, No. 195

Thursday, October 8, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Meeting To Discuss Proposed Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will conduct a public meeting to discuss a proposed direct final rule that would modify 10 CFR 50.54(a). The purpose of the public meeting is to solicit input from interested stakeholders on how best to modify the rule.

DATES: Thursday, October 15, 1998, 1:00 p.m.

ADDRESSES: 11555 Rockville Pike, Rockville, Maryland 20852.

The meeting will be held in room O–3B4 in the NRC One White Flint North Building. The NRC buildings are located across the street from the White Flint Metro Station.

FOR FURTHER INFORMATION CONTACT: Harry Tovmassian or Robert Gramm, Office of Nuclear Reactor Regulation, Mail Stop O–11 F1, U.S. NRC, Washington, DC 20555–0001, telephone (301) 415–3092 or (301) 415–1010, respectively.

SUPPLEMENTARY INFORMATION: The NRC held a public meeting with the Nuclear Energy Institute on this subject on August 27, 1998. A summary of this meeting was issued on September 18, 1998. This summary provides the current NRC staff thinking on this subject and is available from the NRC public document room.

Dated at Rockville, Maryland, this 2nd day of October, 1998.

For the Nuclear Regulatory Commission.

Rajender Auluck,

Acting Chief, Generic Issues and Environmental Projects Branch, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–27037 Filed 10–7–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–198–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Dornier Model 328–100 series airplanes. This proposal would require one-time visual inspections of the elevator trim system for paint contamination on the actuator pistons and to determine the moisture level of the moisture indicator; verification of the installation and condition of the gasket of the flex drive; and corrective actions, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the elevator trim system due to paint/moisture contamination, and consequent reduced controllability of the airplane.

DATES: Comments must be received by November 9, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–198–AD, 1601 Lind Avenue, SW, Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW, Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW, Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–198–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–198–AD, 1601 Lind Avenue, SW, Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on all Dornier Model 328–100 series airplanes. The LBA advises that it has received several reports of the elevator trim actuator freezing up during certain phases of flight. Investigation revealed that the moisture indicators of the elevator trim actuators were pink, and in some cases white (blue is normal), which indicates the presence of moisture. Further investigation revealed that paint contamination was present on the actuator pistons of the elevator trim system, which caused wear of the piston seals. Such wear may have allowed moisture to enter the trim system and freeze, which may cause the actuators to bind and the flex drive to become loose. These conditions, if not corrected, could result in failure of the elevator trim system, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Dornier has issued Alert Service Bulletin ASB–328–27–017, Revision 2, dated July 28, 1998. The alert service bulletin describes procedures for one-time visual inspections of the elevator trim system for paint contamination on the actuator pistons and to determine the moisture level of the moisture indicator; and verification of the installation and condition of the gasket of the flex drive; and corrective actions, if necessary. The corrective actions include removal of any paint contamination detected on the piston surface; replacement of the moisture indicator desiccant of the trim actuator; replacement of the gasket with a new gasket; and torquing the nuts of the flex drive to the correct value.

Accomplishment of the actions specified in the Dornier alert service bulletin is intended to adequately address the identified unsafe condition. The LBA classified this alert service bulletin as mandatory and issued German airworthiness directive 97–188, dated July 3, 1997, in order to assure the continued airworthiness of these airplanes in Germany.

Aviac Technologies, the manufacturer of the desiccant, has issued Identification Procedure for Desiccant DAV/AP98–214, Revision 0, dated April 22, 1998, as an additional source of service information to determine the level of saturation of the desiccant.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $6,000, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dornier Luftfahrt GMBH: Docket 98–NM–198–AD.

Applicability: All Model 328–100 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the elevator trim system due to paint/moisture contamination, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 2 months after the effective date of this AD, perform a one-time visual inspection of the elevator trim system for paint contamination on the actuator pistons and examine the trim actuator moisture indicator to determine the desiccant moisture level, in accordance with the Dornier Alert Service Bulletin ASB–328–27–017, Revision 2, dated July 28, 1998.

(1) If no paint contamination is detected on the actuator pistons, and the moisture indicator of the trim actuator is blue or pale blue, no further action is required by paragraph (a) of this AD.

(2) If no paint contamination is detected on the actuator pistons and the moisture indicator of the trim actuator is pink or white, prior to further flight, replace the trim actuator with a new or serviceable trim actuator and either replace or regenerate the desiccant in accordance with the alert service bulletin.

(3) If any paint contamination is detected on the actuator pistons, prior to further flight, remove the paint in accordance with the alert service bulletin.

Note 2: Aviac Technologies, the manufacturer of the desiccant, has issued Identification Procedure for Desiccant DAV/AP98–214, Revision 0, dated April 22, 1998, as an additional source of service information to determine the level of saturation of the desiccant.

(b) Within 2 months after the effective date of this AD, perform a one-time visual inspection to verify installation of the flat gasket in each end of the flex drive, and to determine if the flat gasket is in good condition (i.e., shows no signs of wear), in accordance with Dornier Alert Service Bulletin ASB–328–27–017, Revision 2, dated July 28, 1998.

(1) If the gasket is installed and in good condition, no further action is required by paragraph (b) of this AD.

(2) If the gasket is missing or is installed and not in good condition, prior to further flight, replace the gasket with a new gasket, and torque the nuts, in accordance with the alert service bulletin.

Note 3: Accomplishment of the actions required by paragraphs (a) and (b) of this AD, prior to the effective date of this AD, in accordance with Dornier Alert Service Bulletin ASB–328–27–017, Revision 1, dated October 1, 1997, is considered acceptable for compliance with the applicable actions specified in paragraphs (a) and (b) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 5: The subject of this AD is addressed in German airworthiness directive 97–188, dated July 3, 1997.

Issued in Renton, Washington, on October 1, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–26964 Filed 10–7–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 216

[Docket No. 98N–0655]

List of Drug Products That Have Been Withdrawn or Removed From the Market for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations to include a list of drug products that may not be used for pharmacy compounding pursuant to the exemptions under section 503A of the Federal Food, Drug, and Cosmetic Act (the act) because they have had their approval withdrawn or were removed from the market because the drug product or its components have been found to be unsafe or not effective. The list has been compiled under the new statutory requirements of the Food and Drug Administration Modernization Act of 1997 (Modernization Act).

DATES: Comments must be received on or before November 23, 1998.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Wayne H. Mitchell, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

President Clinton signed the Modernization Act (Pub. L. 105–115) into law on November 21, 1997. One of the issues addressed in this new legislation is the applicability of the act to the practice of pharmacy compounding. Compounding involves a process whereby a pharmacist or physician combines, mixes, or alters ingredients to create a customized medication for an individual patient. Section 127 of the Modernization Act, which adds section 503A to the act (21 U.S.C. 353a), describes the circumstances under which compounded drugs qualify for exemptions from certain adulteration, misbranding, and new drug provisions of the act (i.e., 501(a)(2)(B), 502(f)(1), and 505 of the act (21 U.S.C. 351(a)(2)(B), 352(f)(1), and 355)). Section 127(b) of the Modernization Act provides that section 503A of the act will become effective on November 21, 1998, 1 year from the date of the Modernization Act's enactment.

Section 503A of the act contains several conditions that must be satisfied for pharmacy compounding to qualify for the exemptions under section 503A. One of the conditions is that the licensed pharmacist or licensed physician does not ''compound a drug product that appears on a list published by the Secretary in the **Federal Register** of drug products that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective.''

II. Rulemaking to Establish the List

In accordance with section 503A of the act, FDA has developed a list of drug products that have been withdrawn or removed from the market because they have been found to be unsafe or not effective. Many of the drug products on the list were withdrawn from the market through official proceedings, including publication of a notice in the **Federal Register**. For these drug products, this preamble to the proposed rule includes the reason for the withdrawal and the citation to the official notice of withdrawal. Other products, both approved and unapproved, were removed from the market voluntarily by the manufacturer or application holder, and FDA has information indicating that the reason for the removal was because the product was unsafe or not effective. In such cases, the reason for the removal is provided, and additional sources of information on the drug can be found in the docket identified by the number found in brackets in the heading of this document.

This proposed rule is the first of a series of rulemaking proceedings to establish the list of withdrawn or removed drug products, as the development and issuance of this list will be an ongoing process. The primary focus of this proposed rule is drug products that have been removed or withdrawn for safety reasons. FDA intends that future rulemaking

proceedings will focus on drug products that were withdrawn for reasons of effectiveness, on drug products that are identified as having been withdrawn for reasons of safety or effectiveness after the preparation of this proposed rule, and on additional drug products that will be proposed for inclusion on the list either during the comment period or subsequently.

FDA is specifically seeking comment on whether additional drug products should be added to the list and whether products now on the list should remain on the list. Persons submitting comments recommending that a drug product be added to the list should include appropriate documentation, including any notices published in the **Federal Register**. In addition, individuals and organizations may petition FDA to amend the list at any time through the regular citizen petition process described in 21 CFR 10.30.

After evaluating the comments on this proposed rule and consulting an advisory committee on compounding, as required by section 503A(d)(1) of the act, FDA will issue the list as a final rule which will be codified in the Code of Federal Regulations. The initial list published as a final rule may include all or some of the products proposed for inclusion on the list in this proposal, depending upon the comments received. Additional products will be added to the list through the rulemaking process after the data on the products are evaluated, and after consultation with the advisory committee on compounding.

III. Description of the Proposed Rule

FDA is proposing that the drug products described in this section be included in the list of drug products that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective. Compounding a drug product that appears on this list is not covered by the exemption provided in section 503A(a) of the act, and may be subject to enforcement action under sections 501(a)(2)(B), 502(f)(1), and 505 (among other applicable provisions) of the act.

The listings are arranged alphabetically by the established name of the active ingredient contained in the drug product. For many of the drugs, the proprietary or trade name of some or all of the drug products which contained the active ingredient are also given in the preamble paragraphs describing the withdrawn or removed drug products. Some of the drugs listed were withdrawn or removed from the market based on problems relating only to one dosage form or route of administration. In such cases, the listing for that drug product reflects that fact, e.g., ''*Neomycin Sulfate*: Parenteral drug products containing neomycin sulfate.'' In other cases, the problem is associated with the active ingredient, or appears to relate to other dosage forms or routes of administration, and the listing reflects that fact, e.g., ''*Adrenal Cortex*: All drug products containing adrenal cortex.'' In several instances, a particular formulation, dosage form, or route of administration is explicitly excluded from an entry on the list because there is an approved drug (that has not been withdrawn or removed from the market) that contains the same active ingredient(s) as the drug product that has been withdrawn or removed from the market. In these instances, the listing includes the appropriate qualification, e.g., ''*Suprofen*: All drug products containing suprofen (except ophthalmic solutions).''

In several cases, the withdrawn drug products are identified according to the established name of the active ingredient, listed as a particular salt or ester of the active moiety, e.g., ''*Dexfenfluramine hydrochloride*: All drug products containing dexfenfluramine hydrochloride.'' Although the specific listing may be limited to a particular salt or ester, other salts or esters of the active moiety will not qualify for the compounding exemptions in section 503A of the act unless (among other requirements) the particular salt or ester is the subject of a United States Pharmacopeia or National Formulary monograph; is a component of an FDA approved drug; or appears on the FDA list of bulk drug substances that may be used for compounding. (See section 503A(b)(1)(A)(i) of the act).

The list is being proposed as § 216.24 of Title 21 of the Code of Federal Regulations. This new section will be included in a new part, part 216, which is currently intended to include all FDA regulations whose primary purpose is implementation of the pharmacy compounding provisions found in section 503A of the act.

The following drug products are proposed for inclusion in proposed § 216.24. The supporting documentation for each listed drug product may be found in the docket identified by the number found in brackets in the heading of this document. The supporting documentation will be arranged alphabetically according to the established name of the active ingredient of the drug products.

Adenosine phosphate: All drug products containing adenosine phosphate. Adenosine phosphate, formerly marketed as a component of Adeno for injection, Adco for injection, and other drug products, was determined to be neither safe nor effective for its intended uses as a vasodilator and an anti-inflammatory. FDA directed the removal of these drug products from the market in 1973.

Adrenal cortex: All drug products containing adrenal cortex. The low level of corticosteroids found in adrenal cortex injection and adrenal cortex extract were determined to present a substantial risk of undertreatment of serious conditions, such as adrenal cortical insufficiency, burns, and hypoglycemia. FDA determined that adrenal cortex for injection and adrenal cortex extract presented a significant potential hazard and directed the removal of these drug products from the market in January 1978.

Azaribine: All drug products containing azaribine. The use of azaribine, formerly marketed as Triazure tablets, was associated with very serious thromboembolic events. Approval of the new drug application (NDA) for Triazure tablets was withdrawn June 10, 1977 (see the **Federal Register** of June 10, 1977 (42 FR 29998)).

Benoxaprofen: All drug products containing benoxaprofen. The use of benoxaprofen, formerly marketed as Oraflex tablets, was associated with fatal cholestatic jaundice among other serious adverse reactions. The holder of the approved application voluntarily withdrew Oraflex tablets from the market on August 5, 1982.

Bithionol: All drug products containing bithionol. Bithionol, formerly marketed as an active ingredient in various topical drug products, was shown to be a potent photosensitizer with the potential to cause serious skin disorders. Approvals of the NDA's for bithionol drug products were withdrawn on October 24, 1967 (see the **Federal Register** of October 31, 1967 (32 FR 15046)).

Bromfenac sodium: All drug products containing bromfenac sodium. The use of bromfenac sodium, formerly marketed as Duract capsules, was associated with fatal hepatic failure. Duract capsules were voluntarily withdrawn from the market by their manufacturer on June 22, 1998.

Butamben: All parenteral drug products containing butamben. The use of a parenteral drug product containing butamben, formerly marketed as Efocaine, was associated with severe adverse reactions, such as severe tissue slough and transverse myelitis.

Approval of the NDA for Efocaine was withdrawn on August 7, 1964 (see the **Federal Register** of August 14, 1964 (29 FR 11656)).

Camphorated oil: All drug products containing camphorated oil. Products containing camphorated oil were associated with poisoning in infants and young children due to accidental ingestion. FDA directed the removal from the market of drug products containing camphorated oil in 1982 (see 21 CFR 310.526 (1997)).

Carbetapentane citrate: All oral gel drug products containing carbetapentane citrate. Carbetapentane citrate gel, formerly marketed as Candette Cough Jel, was determined not to be safe because the inexact methods of measuring the gel by consumers were potentially dangerous. Approval of the NDA for Candette Cough Jel was withdrawn on November 29, 1972 (see the **Federal Register** of November 29, 1972 (37 FR 25249)).

Casein, iodinated: All drug products containing iodinated casein. Iodinated casein, formerly marketed as a component of Neo-Barine, was associated with thyrotoxic side effects. Approval of the NDA for Neo-Barine was withdrawn October 22, 1964 (see the **Federal Register** of October 28, 1964 (29 FR 14676)).

Chlorhexidine gluconate: All tinctures of chlorhexidine gluconate formulated for use as a patient preoperative skin preparation. Chlorhexidine gluconate topical tincture 0.5%, formerly marketed as Hibitane, was associated with chemical and thermal burns when used as a patient preoperative skin preparation. The drug product was voluntarily removed from the market in early 1984. FDA determined that chlorhexidine gluconate topical tincture 0.5% was removed from the market for reasons of safety (see the **Federal Register** of October 6, 1997 (62 FR 52137)).

Chlormadinone acetate: All drug products containing chlormadinone acetate. Chlormadinone acetate, formerly marketed as a component of the combination drug products Estalor-21 and C-Quens tablets, was associated with the development of mammary tumors in dogs. The manufacturer ceased marketing the drug in 1970 and approvals of the NDA's for Estalor-21 and C-Quens tablets were withdrawn by FDA on March 16, 1972 (see the **Federal Register** of March 16, 1972 (37 FR 5516)).

Chloroform: All drug products containing chloroform. National Cancer Institute studies demonstrated that chloroform is carcinogenic in animals. FDA directed the removal from the market of drug products containing chloroform in 1976 (see 21 CFR 310.513 (1997)).

Cobalt: All drug products containing cobalt salts (except radioactive forms of cobalt and its salts and cobalamin and its derivatives). FDA found that cobalt salts were not safe or effective for treatment of iron-deficiency anemia. The toxic effects of cobalt salts include liver damage, claudication, and myocardial damage. FDA directed the removal from the market of drug products containing cobalt salts in 1967 (see 21 CFR 250.106 (1997)).

Dexfenfluramine hydrochloride: All drug products containing dexfenfluramine hydrochloride. Dexfenfluramine hydrochloride, formerly marketed as Redux capsules, was associated with valvular heart disease. The manufacturer of dexfenfluramine hydrochloride capsules voluntarily withdrew the drug from the market in September 1997.

Diamthazole dihydrochloride: All drug products containing diamthazole dihydrochloride. Diamthazole dihydrochloride, formerly marketed as Asterol ointment, powder, and tincture, was associated with neurotoxicity. Approvals of the NDA's for Asterol ointment, powder, and tincture were withdrawn on July 19, 1977 (see the **Federal Register** of July 19, 1977 (42 FR 37057)).

Dibromsalan: All drug products containing dibromsalan. Dibromsalan, formerly marketed in a number of drug products, largely antibacterial soaps, as an antimicrobial, preservative, or for other purposes, was, with other halogenated salicylanilides listed in this proposal, found to be a potent photosensitizer capable of causing disabling skin disorders. FDA directed the removal from the market of drug products containing dibromsalan in 1975 (see § 310.508 (21 CFR 310.508) (1997)).

Diethylstilbestrol: All oral and parenteral drug products containing 25 milligrams (mg) or more of diethylstilbestrol per unit dose. Diethylstilbestrol, marketed in various tablet and parenteral drug products, was associated with adenocarcinoma of the vagina in the offspring of the patient when used in early pregnancy. Approvals of the NDA's for these diethylstilbestrol drug products were withdrawn on February 18, 1975 (see the **Federal Register** of February 5, 1975 (40 FR 5384)).

Dihydrostreptomycin sulfate: All drug products containing dihydrostreptomycin sulfate. Dihydrostreptomycin sulfate, formerly marketed in several parenteral drug products, was associated with ototoxicity. Approvals of the NDA's for dihydrostreptomycin sulfate drug products were withdrawn on July 20, 1970 (see the **Federal Register** of September 3, 1970 (35 FR 13988)).

Dipyrone: All drug products containing dipyrone. Dipyrone, formerly marketed as Dimethone tablets and injection, Protemp oral liquid, and other drug products, was associated with potentially fatal agranulocytosis. Approvals of the NDA's for dipyrone drug products were withdrawn on June 27, 1977 (see the **Federal Register** of June 17, 1977 (42 FR 30893)).

Encainide hydrochloride: All drug products containing encainide hydrochloride. Encainide hydrochloride, formerly marketed as Enkaid capsules, was associated with increased death rates in patients who had asymptomatic heart rhythm abnormalities after a recent heart attack. The manufacturer of Enkaid capsules voluntarily withdrew the product from the market on December 16, 1991.

Fenfluramine hydrochloride: All drug products containing fenfluramine hydrochloride. Fenfluramine hydrochloride tablets, formerly marketed as Pondimin tablets, were associated with valvular heart disease. The manufacturer of fenfluramine hydrochloride tablets voluntarily withdrew the drug from the market in September 1997.

Flosequinan: All drug products containing flosequinan. Flosequinan, formerly marketed as Manoplax tablets, was the subject of a study that indicated the drug had adverse effects on survival, and that beneficial effects on the symptoms of heart failure did not last beyond the first 3 months of therapy. After the first 3 months of therapy, patients on the drug had a higher rate of hospitalization than patients taking a placebo. The manufacturer of Manoplax tablets voluntarily withdrew the drug from the market in July 1993.

Gelatin: All intravenous drug products containing gelatin. Gelatin for intravenous use, formerly marketed as Knox Special Gelatine Solution Intravenous-6 percent, was found not to be suitable as a plasma expander because the drug caused increased blood viscosity, reduced blood clotting, and prolonged bleeding time. Approval of the NDA for Knox Special Gelatine Solution Intravenous-6 percent was withdrawn on April 19, 1978 (see the **Federal Register** of April 7, 1978 (43 FR 14743)).

Glycerol, iodinated: All drug products containing iodinated glycerol. Iodinated glycerol, formerly marketed as Iodur Elixir and other drug products, was

found to have carcinogenic potential. FDA directed the removal from the market of drug products containing iodinated glycerol in April 1993.

Gonadotropin, chorionic: All drug products containing chorionic gonadotropins of animal origin. Chorionic gonadotropins of animal origins, formerly marketed as Synapoidin Steri-Vial, were shown to produce allergic reactions. Approval of the NDA for Synapoidin Steri-Vial was withdrawn on July 6, 1972 (see the **Federal Register** of July 6, 1972 (37 FR 13284)).

Mepazine: All drug products containing mepazine hydrochloride or mepazine acetate. Mepazine hydrochloride, formerly marketed as Pacatal tablets, and mepazine acetate, formerly marketed as Pacatal for injection, were associated with granulocytopenia, granulocytosis, paralytic ileus, urinary retention, seizures, hypotension, and jaundice. Approval of the NDA for Pacatal tablets and Pacatal for injection was withdrawn on May 28, 1970 (see the **Federal Register** of May 28, 1970 (35 FR 8405)).

Metabromsalan: All drug products containing metabromsalan. Metabromsalan, formerly marketed in a number of drug products, largely antibacterial soaps, as an antimicrobial, preservative, or for other purposes, was, with other halogenated salicylanilides listed in this proposal, found to be a potent photosensitizer capable of causing disabling skin disorders. FDA directed the removal from the market of drug products containing metabromsalan in 1975 (see § 310.508 (1997)).

Methamphetamine hydrochloride: All parenteral drug products containing methamphetamine hydrochloride. Parenteral methamphetamine hydrochloride, formerly marketed as Methedrine injection and Drinalfa injection and used as an adjunct treatment for weight reduction, was found to have a history of serious abuse and a severe risk of dependence. Approvals of the NDA's for Methedrine injection and Drinalfa injection were withdrawn on March 30, 1973 (see 21 CFR 310.504 (1997)).

Methapyrilene: All drug products containing methapyrilene. Methapyrilene, formerly marketed in many drug products, was shown to be a potent carcinogen. Manufacturers voluntarily withdrew methapyriline drug products from the market in May and June 1979.

Methopholine: All drug products containing methopholine. Methopholine, formerly marketed as Versidyne tablets, was associated with ophthalmic changes and corneal opacities in dogs. Approval of the NDA for Versidyne tablets was withdrawn on March 22, 1965 (see the **Federal Register** of March 27, 1965 (30 FR 4083)).

Mibefradil dihydrochloride: All drug products containing mibefradil dihydrochloride. Mibefradil dihydrochloride, formerly marketed as Posicor tablets, was associated with potentially harmful interactions with other drugs. Mibefradil dihydrochloride reduced the activity of certain liver enzymes that are important in helping the body eliminate many other drugs. Inhibiting these enzymes can cause some of these drugs to accumulate to dangerous levels in the body. The manufacturer voluntarily removed Posicor tablets from the market on June 8, 1998.

Neomycin sulfate: All parenteral drug products containing neomycin sulfate. Parenteral neomycin sulfate was found to present toxicity problems when used to irrigate wounds and was found not to be acceptable for the treatment of urinary tract infections due to the availability of newer, safer antibiotics that were as effective as, or more effective than, parenteral neomycin sulfate. Approvals of the marketing applications for parenteral neomycin sulfate were withdrawn on January 5, 1989 (see the **Federal Register** of December 6, 1988 (53 FR 49232)).

Nitrofurazone: All drug products containing nitrofurazone (except topical drug products formulated for dermatalogic application). Nitrofurazone, formerly marketed in nasal drops, otic drops, and vaginal suppositories, was associated with mammary neoplasia in rats. Approvals of the NDA's for the nitrofurazone drug products were withdrawn on December 4, 1974, and June 10, 1975 (see the **Federal Register** of December 4, 1974 (39 FR 42018), and May 30, 1975 (40 FR 23502)).

Nomifensine maleate: All drug products containing nomifensine maleate. Nomifensine maleate, formerly marketed as Merital capsules, was associated with an increased incidence of hemolytic anemia. The approved application holder removed Merital capsules from the market on January 23, 1986. FDA published a notice of its determination that Merital capsules were removed from the market for safety reasons (see the **Federal Register** of June 17, 1986 (51 FR 21981)). Approval of the NDA for Merital capsules was withdrawn on March 20, 1992 (see the **Federal Register** of March 20, 1992 (57 FR 9729)).

Oxyphenisatin: All drug products containing oxyphenisatin. Oxyphenisatin, formerly marketed in Lavema Compound Solution and Lavema Enema Powder, was associated with hepatitis and jaundice. The approvals of the NDA's for Lavema Compound Solution and Lavema Enema Powder were withdrawn on March 9, 1973 (see the **Federal Register** of March 9, 1973 (38 FR 6419)).

Oxyphenisatin acetate: All drug products containing oxyphenisatin acetate. Oxyphenisatin acetate, formerly marketed in Dialose Plus capsules, Noloc capsules, and other drug products, was associated with hepatitis and jaundice. Approvals of the NDA's for the oxyphenisatin acetate drug products were withdrawn on February 1, 1972 (see the **Federal Register** of February 1, 1972 (37 FR 2460)).

Phenacetin: All drug products containing phenacetin. Phenacetin, formerly marketed in A.P.C. with Butalbital tablets and capsules and other drug products, was associated with a high potential for harm to the kidneys and the possibility of hemolytic anemia and methemoglobinemia resulting from abuse. The approvals of the NDA's for the phenacetin drug products were withdrawn on November 4, 1983 (see the **Federal Register** of October 5, 1983 (48 FR 45466)).

Phenformin hydrochloride: All drug products containing phenformin hydrochloride. Phenformin hydrochloride, formerly marketed as D.B.I. tablets, Meltrol-50 capsules, and other drug products, was associated with lactic acidosis. Approvals of the NDA's for the phenformin hydrochloride drug products were withdrawn on November 15, 1978 (see the **Federal Register** of April 6, 1979 (44 FR 20967)).

Pipamazine: All drug products containing pipamazine. Pipamazine, formerly marketed as Mornidine tablets and injection, was associated with hepatic lesions. Approval of the NDA for Mornidine tablets and injection was withdrawn on July 17, 1969 (see the **Federal Register** of July 17, 1969 (34 FR 12051)).

Potassium arsenite: All drug products containing potassium arsenite. Potassium arsenite, formerly marketed as Fowler's Solution (oral), was toxic and highly carcinogenic. FDA determined Fowler's Solution was a new drug in April 1980, and the manufacturers removed the drug product from the market.

Potassium chloride: All solid oral dosage form drug products containing potassium chloride that supply 100 mg or more of potassium per dosage unit

(except for controlled-release dosage forms and those products formulated for preparation of solution prior to ingestion). Concentrated solid oral dosage forms of potassium salt were associated with small bowel lesions. Approvals of NDA's for all solid oral dosage form drug products containing potassium chloride that supply 100 mg or more of potassium per dosage unit (except for controlled-release dosage forms and those products formulated for preparation of solution prior to ingestion) were withdrawn on July 29, 1977, and April 29, 1992 (see the **Federal Register** of July 29, 1977 (42 FR 38644), and April 29, 1992 (57 FR 18157)).

Povidone: All intravenous drug products containing povidone. Povidone, marketed as Polyvinylpyrrolidone in Normal Saline, was found to be unsafe for use as a plasma expander in the emergency treatment of shock because povidone accumulates in the body and may cause storage disease with the formation of granulomas. Povidone also interferes with blood coagulation, hemostasis, and blood typing and cross matching. Approval of the NDA for Polyvinylpyrrolidone in Normal Saline was withdrawn on April 19, 1978 (see the **Federal Register** of April 7, 1978 (43 FR 14743)).

Reserpine: All oral dosage form drug products containing more than 1 mg of reserpine. Reserpine, marketed as Reserpoid tablets, Rau-Sed tablets, and other drug products for the treatment of hypertension and psychiatric disorders, was associated with a greater frequency and severity of adverse effects in strengths greater than 1 mg. Approvals of NDA's, or those portions of NDA's, for solid oral dosage form drug products containing more than 1 mg of reserpine were withdrawn on May 9, 1977 (see the **Federal Register** of April 29, 1977 (42 FR 21844)).

Sparteine sulfate: All drug products containing sparteine sulfate. Sparteine sulfate, formerly marketed as Spartocin injection and Tocosamine sterile solution, was found to have unpredicatable effects and was associated with tetanic uterine contractions and obstetrical complications. Approvals of the NDA's for Spartocin injection and Tocosamine sterile solution were withdrawn on August 17, 1979 (see the **Federal Register** of August 7, 1979 (44 FR 46316)).

Sulfadimethoxine: All drug products containing sulfadimethoxine. Sulfadimethoxine, formerly marketed in Madricidin capsules, was associated with Stevens-Johnson syndrome and fatalities. Approval of the NDA for Madricidin capsules was withdrawn on March 11, 1966 (see the **Federal Register** of March 19, 1966 (31 FR 4747)).

Sulfathiazole: All drug products containing sulfathiazole (except those formulated for vaginal use). Sulfathiazole, formerly marketed in Tresamide tablets and several other brands of tablets, was associated with renal complications, rash, fever, blood dyscrasias, and liver damage. Approvals of the NDA's for sulfathiazole tablets were withdrawn on September 28, 1970 (see the **Federal Register** of October 15, 1970 (35 FR 16190)).

Suprofen: All drug products containing suprofen (except ophthalmic solutions). Suprofen, formerly marketed as Suprol capsules, was associated with flank pain syndrome. The manufacturer voluntarily removed Suprol capsules from the market in May 1987.

Sweet spirits of nitre: All drug products containing sweet spirits of nitre. Sweet spirits of nitre, also known as spirit of nitre, spirit of nitrous ether, and ethyl nitrite spirit, was associated with methemoglobinemia in infants. FDA directed the removal from the market of drug products containing sweet spirits of nitre in 1980 (see 21 CFR 310.525 (1997)).

Temafloxacin hydrochloride: All drug products containing temafloxacin hydrochloride. Temafloxacin hydrochloride, formerly marketed as Omniflox tablets, was associated with hypoglycemia in elderly patients, as well as a constellation of multisystem organ involvement characterized by hemolytic anemia, frequently associated with renal failure, markedly abnormal liver tests, and coagulopathy. The approved application holder voluntarily removed Omniflox tablets from the market in Spring 1992. Approval of the NDA for Omniflox tablets was withdrawn on September 25, 1997 (see the **Federal Register** of September 25, 1997 (62 FR 50387)).

Terfenadine: All drug products containing terfenadine. Terfenadine, formerly marketed in Seldane and Seldane-D tablets, was associated with serious heart problems when used concurrently with certain drugs, including certain antibiotics and antifungals. Seldane and Seldane-D tablets were voluntarily removed from the market by their manufacturer in February 1998.

3,3′,4′,5-tetrachlorosalicylanilide: All drug products containing 3,3′,4′,5-tetrachlorosalicylanilide. The halogenated salicylanilide 3,3′,4′,5-tetrachlorosalicylanilide, formerly marketed in a number of drug products, largely antibacterial soaps, as an antimicrobial, preservative, or for other purposes, was, with other halogenated salicylanilides listed in this proposal, found to be a potent photosensitizer capable of causing disabling skin disorders. FDA directed the removal from the market of drug products containing 3,3′,4′,5-tetrachlorosalicylanilide in 1975 (see § 310.508 (1997)).

Tetracycline: All liquid oral drug products formulated for pediatric use containing tetracycline in a concentration greater than 25 mg/milliliter (mL). Concentrated tetracycline was associated with temporary inhibition of bone growth, permanent staining of the teeth, and enamel hypoplasia in children. FDA amended the antibiotic drug regulations so that drug products containing tetracycline formulated for pediatric use in a concentration greater than 25 mg/mL would not be certified (see the **Federal Register** of October 31, 1978 (43 FR 50676)).

Ticrynafen: All drug products containing ticrynafen. Ticrynafen, formerly marketed as Selacryn tablets, was associated with liver toxicity. Selacryn tablets were voluntarily withdrawn from the market by their manufacturer on January 16, 1980. Approval of the NDA for Selacryn tablets was withdrawn on May 20, 1996 (see the **Federal Register** of May 20, 1996 (61 FR 25228)).

Tribromsalan: All drug products containing tribromsalan. Tribromsalan, formerly marketed in a number of drug products, largely antibacterial soaps, as an antimicrobial, preservative, or for other purposes, was, with other halogenated salicylanilides listed in this proposal, found to be a potent photosensitizer capable of causing disabling skin disorders. FDA directed the removal from the market of drug products containing tribromsalan in 1975 (see § 310.508 (1997)).

Trichloroethane: All aerosol drug products intended for inhalation containing trichloroethane. Trichloroethane is potentially toxic to the cardiovascular system and was associated with deaths from misuse or abuse. FDA directed the removal from the market of aerosal drug products intended for inhalation containing trichloroethane in 1977 (see 21 CFR 310.507 (1997)).

Urethane: All drug products containing urethane. Urethane (also known as urethan and ethyl carbamate), formerly marketed as an inactive ingredient in Profenil injection, was determined to be carcinogenic. Approval of the NDA for Profenil

injection was withdrawn on March 28, 1977 (see the **Federal Register** of March 18, 1977 (42 FR 15138)).

Vinyl chloride: All aerosol drug products containing vinyl chloride. The inhalation of vinyl chloride is associated with acute toxicity manifested by dizziness, headache, disorientation, and unconsciousness. FDA directed the removal from the market of aerosol drug products containing vinyl chloride in 1974 (see 21 CFR 310.506 (1997)).

Zirconium: All aerosol drug products containing zirconium. Zirconium, formerly used in several aerosol drug products as an antiperspirant, was associated with human skin granulomas and toxic effects in the lungs and other internal organs of test animals. FDA directed the removal from the market of aerosol drug products containing zirconium in 1977 (see 21 CFR 310.510 (1997)).

Zomepirac sodium: All drug products containing zomepirac sodium. Zomepirac sodium, formerly marketed as Zomax tablets, was associated with fatal and near-fatal anaphylactoid reactions. The manufacturer voluntarily removed Zomax tablets from the market in March 1983.

IV. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs, or if it raises novel legal or policy issues. As discussed in the following paragraphs, the agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The agency has not estimated any compliance costs or loss of sales due to this proposal because it prohibits pharmacy compounding of only those drug products that have already been withdrawn or removed from the market. Although the agency is not aware of any routine use of these drug products in pharmacy compounding, the agency invites the submission of comments on this issue and solicits current compounding usage data for these drug products.

Unless an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options to minimize any significant economic impact of a regulation on small entities. The agency is taking this action in order to comply with Section 503A of the act. This provision specifically directs FDA to develop a list of drug products that have been withdrawn or removed from the market because such products or components have been found to be unsafe or not effective. Any drug product on this list will not qualify for the pharmacy compounding exemptions under section 503A of the act. The drug products on this list were manufactured by many different pharmaceutical firms, some of which may have qualified under the Small Business Administration (SBA) regulations (those with less than 750 employees) as small businesses. However, since the list only includes those drug products that have already been withdrawn or removed from the market for safety or efficacy concerns, this proposal will not negatively impact these small businesses. Moreover, no compliance costs are estimated for any of these small pharmaceutical firms because they are not the subject of this rule and are not expected to realize any further loss of sales due to this proposal. Further, the SBA guidelines limit the definition of small drug stores or pharmacies to those that have less than $5.0 million in sales. Again, the pharmacies that qualify as small businesses are not expected to incur any compliance costs or loss of sales due to this regulation because the products have already been withdrawn or removed from the market, and the agency believes that these drugs would be compounded only very rarely, if ever. Therefore, FDA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before proposing any expenditure by State, local, and tribal Governments, in the aggregate, or by the private sector of $100 million (adjusted annually for inflation) in any 1 year. The publication of the list of products withdrawn or removed from the market because they were found to be unsafe or ineffective will not result in expenditures of funds by State, local, and tribal governments or the private sector in excess of $100 million annually. Because the agency does not estimate any annual expenditures due to the proposed rule, FDA is not required to perform a cost/benefit analysis according to the Unfunded Mandates Reform Act.

VI. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (Pub. L. 104–13) is not required.

VII. Request for Comments

Interested persons may, on or before November 23, 1998, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The agency notes that the comment period in this document is shorter than the 75-day period that is customarily provided by FDA for proposed rules of a technical nature. Likewise, this comment period is less than the 60 days ordinarily provided, as set out in FDA's procedural regulations, § 10.40(b)(2) (21 CFR 10.40(b)(2)). As discussed in the following paragraphs, FDA believes that a 45-day comment period is appropriate in this instance. Executive Order 12889 (58 FR 69681, December 30, 1993), which implemented the North American Free Trade Agreement, states that any agency subject to the Administrative Procedure Act should provide a 75-day comment period for any proposed Federal technical regulation or any Federal sanitary or phytosanitary measure of general application. However, Executive Order 12889 provides an exception to the 75-

day period where the United States considers the measure necessary to address an urgent problem related to the protection of human, plant, or animal health. Similarly, FDA regulations establish a 60-day comment period as ordinary agency practice, but provide that the 60-day period may be shortened if the Commissioner of Food and Drugs finds good cause for doing so.

As discussed in this document, section 503A(a) of the act exempts certain compounded drug products from some specific misbranding and adulteration provisions, as well as the new drug provision, of the act. Section 503A(b)(1)(C) of the act excludes from the exemption drugs that FDA has found were removed from the market or had marketing applications withdrawn because the drug product or some component of the drug product was unsafe or ineffective. Compounding versions of many of these drug products presents a serious risk to human health, either indirectly, because a patient is being provided an ineffective drug product when effective drug products may be available, or directly, due to the toxicity of the drug product. Indeed, many of the drug products listed in this proposed rule have been associated with human fatalities.

Section 127(b) of the Modernization Act provides that section 503A of the act will go into effect on November 21, 1998. If a final regulation issuing the list of drug products that have been withdrawn or removed is not published before November 21, 1998, these drug products may be compounded, exempt from various legal requirements, contrary to the expressed intent of Congress and at a risk to human health. Accordingly, the agency intends to solicit public comment on this proposal, consider the comments submitted, and prepare and publish a final implementing regulation by November 21, 1998. FDA has concluded that the urgency of this matter is sufficient justification for shortening the comment period for this proposal to 45 days, consistent with Executive Order 12889. Similarly, this urgency constitutes good cause within the meaning of § 10.40(b), which justifies shortening the period to 45 days.

List of Subjects in 21 CFR Part 216

Drugs, Pharmacy compounding, Prescription drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 216 be added to read as follows:

1. Part 216 is added to read as follows:

PART 216—PHARMACY COMPOUNDING

Subpart A—General Provisions [Reserved]

Subpart B—Compounded Drug Products

Sec.

Authority: 21 U.S.C. 351, 352, 353a, 355, and 371.

Subpart A—General Provisions [Reserved]

Subpart B—Compounded Drug Products

§ 216.23 [Reserved]

§ 216.24 Drug products withdrawn or removed from the market for reasons of safety or effectiveness.

The following drug products were withdrawn or removed from the market because such drug products or components of such drug products were found to be unsafe or not effective. The following drug products may not be compounded under the exemptions provided by section 503A(a) of the Federal Food, Drug, and Cosmetic Act:

Adenosine phosphate: All drug products containing adenosine phosphate.

Adrenal cortex: All drug products containing adrenal cortex.

Azaribine: All drug products containing azaribine.

Benoxaprofen: All drug products containing benoxaprofen.

Bithionol: All drug products containing bithionol.

Bromfenac sodium: All drug products containing bromfenac sodium.

Butamben: All parenteral drug products containing butamben.

Camphorated oil: All drug products containing camphorated oil.

Carbetapentane citrate: All oral gel drug products containing carbetapentane citrate.

Casein, iodinated: All drug products containing iodinated casein.

Chlorhexidine gluconate: All tinctures of chlorhexidine gluconate formulated for use as a patient preoperative skin preparation.

Chlormadinone acetate: All drug products containing chlormadinone acetate.

Chloroform: All drug products containing chloroform.

Cobalt: All drug products containing cobalt salts (except radioactive forms of cobalt and its salts and cobalamin and its derivatives).

Dexfenfluramine hydrochloride: All drug products containing dexfenfluramine hydrochloride.

Diamthazole dihydrochloride: All drug products containing diamthazole dihydrochloride.

Dibromsalan: All drug products containing dibromsalan.

Diethylstilbestrol: All oral and parenteral drug products containing 25 milligrams or more of diethylstilbestrol per unit dose.

Dihydrostreptomycin sulfate: All drug products containing dihydrostreptomycin sulfate.

Dipyrone: All drug products containing dipyrone.

Encainide hydrochloride: All drug products containing encainide hydrochloride.

Fenfluramine hydrochloride: All drug products containing fenfluramine hydrochloride.

Flosequinan: All drug products containing flosequinan.

Gelatin: All intravenous drug products containing gelatin.

Glycerol, iodinated: All drug products containing iodinated glycerol.

Gonadotropin, chorionic: All drug products containing chorionic gonadotropins of animal origin.

Mepazine: All drug products containing mepazine hydrochloride or mepazine acetate.

Metabromsalan: All drug products containing metabromsalan.

Methamphetamine hydrochloride: All parenteral drug products containing methamphetamine hydrochloride.

Methapyrilene: All drug products containing methapyrilene.

Methopholine: All drug products containing methopholine.

Mibefradil dihydrochloride: All drug products containing mibefradil dihydrochloride.

Neomycin sulfate: All parenteral drug products containing neomycin sulfate.

Nitrofurazone: All drug products containing nitrofurazone (except topical drug products formulated for dermatalogic application).

Nomifensine maleate: All drug products containing nomifensine maleate.

Oxyphenisatin: All drug products containing oxyphenisatin.

Oxyphenisatin acetate: All drug products containing oxyphenisatin acetate.

Phenacetin: All drug products containing phenacetin.

Phenformin hydrochloride: All drug products containing phenformin hydrochloride.

Pipamazine: All drug products containing pipamazine.

Potassium arsenite: All drug products containing potassium arsenite.

Potassium chloride: All solid oral dosage form drug products containing potassium chloride that supply 100 milligrams or more of potassium per dosage unit (except for controlled-release dosage forms and those products formulated for preparation of solution prior to ingestion).

Povidone: All intravenous drug products containing povidone.

Reserpine: All oral dosage form drug products containing more than 1 milligram of reserpine.

Sparteine sulfate: All drug products containing sparteine sulfate.

Sulfadimethoxine: All drug products containing sulfadimethoxine.

Sulfathiazole: All drug products containing sulfathiazole (except those formulated for vaginal use).

Suprofen: All drug products containing suprofen (except ophthalmic solutions).

Sweet spirits of nitre: All drug products containing sweet spirits of nitre.

Temafloxacin hydrochloride: All drug products containing temafloxacin hydrochloride.

Terfenadine: All drug products containing terfenadine.

3,3′,4′,5-tetrachlorosalicylanilide: All drug products containing 3,3′,4′,5-tetrachlorosalicylanilide.

Tetracycline: All liquid oral drug products formulated for pediatric use containing tetracycline in a concentration greater than 25 milligrams/milliliter.

Ticrynafen: All drug products containing ticrynafen.

Tribromsalan: All drug products containing tribromsalan.

Trichloroethane: All aerosol drug products intended for inhalation containing trichloroethane.

Urethane: All drug products containing urethane.

Vinyl chloride: All aerosol drug products containing vinyl chloride.

Zirconium: All aerosol drug products containing zirconium.

Zomepirac sodium: All drug products containing zomepirac sodium.

Dated: October 1, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–26923 Filed 10–2–98; 4:25 pm]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4076b; FRL–6166–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC and NO_X RACT Determinations for Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing volatile organic compound (VOC) and nitrogen oxides (NO_X) reasonably available control technology (RACT) for four (4) major sources located in Pennsylvania. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the accompanying technical support document. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If adverse comments are received that do not pertain to all documents subject to this rulemaking action, those documents not affected by the adverse comments will be finalized in the manner described here. Only those documents that receive adverse comments will be withdrawn in the manner described here.

DATES: Comments must be received in writing by November 9, 1998.

ADDRESSES: Written comments should be addressed to David Campbell, Air Protection Division, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch St., Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch St., Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: David Campbell, (215) 814–2196, at the EPA Region III office or via e-mail at campbell.dave@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: See the information pertaining to this action, VOC and NO_X RACT determinations for individual sources located in Pennsylvania, provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 11, 1998.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 98–26896 Filed 10–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–201–9828b; FRL–6169–7]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Nashville/Davidson County Portion of the Tennessee SIP Regarding Control of Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve revisions to the Nashville/Davidson County portion of the Tennessee State Implementation Plan (SIP) concerning control of volatile organic compounds. The State of Tennessee through the Tennessee Department of Air Pollution Control submitted the revisions to EPA on July 23, 1997. To be consistent with the EPA's Guidelines for ''Control of Volatile Organic Compounds Emissions from Stationary Sources,'' the State of Tennessee amended Regulation No. 7, ''Regulation for Control of Volatile Organic Compounds, Section 7–16, Emission Standards for Surface Coating of Miscellaneous Metal Parts and Products'' of the Nashville/Davidson County portion of the Tennessee SIP (Nashville SIP).

In the final rules section of this **Federal Register**, the EPA is approving the State of Tennessee SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to the direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by November 9, 1998.

ADDRESSES: Written comments should be addressed to Mr. Gregory O. Crawford at the EPA Regional Office listed below. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons

wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243–1531, (615) 532–0554.

Metropolitan Government of Nashville and Davidson County, Metropolitan Health Department, 311–23rd Avenue, North, Nashville, Tennessee 37203, (615) 340–5653.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory O. Crawford, Regulatory Planning Section. Air Planning Branch, Air, Pesticides, and Toxics Management Division, Region 4, Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, GA 30303. The telephone number is 404/562–9046. (E-mail: crawford.gregory@epamail.epa.gov).

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: September 8, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 98–26894 Filed 10–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[AL–046–9826b; FRL–6168–3]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Alabama

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the section 111(d) Plan submitted by the Alabama Department of Environmental Management (ADEM) for the State of Alabama on January 6, 1998, for implementing and enforcing the Emissions Guidelines applicable to existing Municipal Solid Waste Landfills. The Plan was submitted by the ADEM to satisfy certain Federal Clean Air Act requirements. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to the direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time.

DATES: Comments must be received in writing by November 9, 1998.

ADDRESSES: Written comments should be addressed to Kimberly Bingham at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104.

Alabama Department of Environmental Management, Air Division, 1751 Congressman W.L. Dickinson Drive, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham at (404) 562–9038 or Scott Davis at (404) 562–9127.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: September 3, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 98–26900 Filed 10–7–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 43, 52, 54, and 64

[FCC 98–233]

1998 Biennial Regulatory Review—Streamlined Contributor Reporting Requirements

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On September 25, 1998, the Federal Communications Commission released a Notice of Proposed Rulemaking (NPRM) that proposed to consolidate four Commission reporting requirements so that carriers need only file one worksheet to satisfy the reporting requirements associated with: the universal service support mechanisms; the telecommunications relay services support mechanism; the cost recovery mechanism for numbering administration; and the cost recovery mechanism for shared costs of long-term local number portability. Part of the Commission's 1998 biennial regulatory review, the item proposes limited changes to the Commission's rules to facilitate the introduction of a unified worksheet. The NPRM contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

DATES: Comments are due on or before October 30, 1998. Reply comments are due on or before November 16, 1998. Written comments by the public on the proposed information collections are due October 30, 1998, and reply comments are due November 16, 1998. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before December 7, 1998.

ADDRESSES: Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Suite 222, Washington, DC 20554, with a copy to Scott Bergmann of the Common Carrier Bureau, Federal Communications Commission, 2033 M Street, NW, Suite 500, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket

with the Commission's copy contractor, International Transcription Services, Inc. (ITS), 1231 20th St., NW, Washington, DC 20037. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW, Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Thomas J. Beers, Deputy Chief of the Industry Analysis Division, Common Carrier Bureau, at (202) 418–0952, or Scott K. Bergmann, Industry Analysis Division, Common Carrier Bureau, at (202) 418–7102.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking and Notice of Inquiry released September 25, 1998 (FCC 98–233). The full text of the Notice of Proposed Rulemaking and Notice of Inquiry is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, Washington, DC 20554. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857–3800, 1231 20th St., NW, Washington, DC 20036.

Paperwork Reduction Act

This Notice of Proposed Rulemaking contains a proposed or modified information collection subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget to comment on the information collections in this NPRM. Public and agency comments are due at the same time as other comments on the Notice of Proposed Rulemaking; OMB notification of action is due December 7, 1998. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: None.

Title: ''Telecommunications Reporting Worksheet and Associated Requirements, CC Docket No. 98–171, NPRM''.

Form Number: FCC Form 499.

Type of Review: Proposed New Collection.

Respondents: Business or other for profit, including small businesses.

Burden Estimate:

Section/title	Respondents	Est. time per resp.	Annual burden
(1) Telecommunications:			
Reporting Worksheet	5,000	6 hour	30,000 hours.
(2) De minimis and Documenting Procedures:			
Recordkeeping Requirement	1000	.25	250 hours.
(3) Notification Req	3000	.25	750 hours.

Frequency: On occasion; annual; semi-annual; third party disclosures.

Total Annual Burden: 31,000 total hours.

Estimated Costs Per Respondent: Approximately $1.15.

Needs and Uses: The information collections for which approval is sought would be used by the Commission and the administrators to calculate contributions to the universal service support mechanisms, the telecommunications relay services support mechanisms, the cost recovery for numbering administration, and the cost recovery for the shared costs of long-term local number portability. If the Commission adopts its proposal in the Streamlined Contributor Reporting Requirements NPRM, the proposed worksheet would replace four existing forms and the information requested in the proposed worksheet would not be otherwise available. Without such information, the Commission could not determine contributions to the support and cost recovery mechanisms and, therefore, could not fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended.

Summary of the Notice of Proposed Rulemaking

1. In the Notice of Proposed Rulemaking (NPRM) summarized here, we propose to simplify the Commission's filing requirements so that a single worksheet will replace several different forms currently filed with similar information. Under our existing rules, different filing and reporting requirements are associated with the Telecommunications Relay Services (TRS) Fund,[1] federal universal service support mechanisms,[2] the cost recovery mechanism for the North American Numbering Plan (NANP) administration,[3] and the cost recovery mechanism for long-term local number portability (LNP) administration.[4] Carriers and certain other providers of telecommunications services must satisfy these various requirements by filing different forms or worksheets, containing similar but not identical information, at different times, at different intervals, and in different locations.

2. Our existing multiple filing requirements impose real burdens on affected parties—burdens that we can significantly reduce by combining current contributor reporting worksheets into one unified Telecommunications Reporting Worksheet. Besides benefiting reporting entities, adopting a single worksheet also will reduce the public costs of regulation by conserving Commission staff resources associated with auditing and cross-checking data submissions. Such public cost reductions benefit not only regulated parties and the Commission, but American taxpayers generally. We initiate this proceeding and review of our rules as part of our 1998 biennial review of regulations as required by section 11 of the

[1] 47 CFR 64.601 *et seq.*

[2] 47 CFR 54.1 *et seq.*, 69.1 *et seq.*

[3] 47 CFR 52.1 *et seq.*

[4] 47 CFR 52.21 *et seq.*

Communications Act, as amended.[5] Section 11 of the Act requires us to review all of our regulations applicable to providers of telecommunications services and determine whether any rule is no longer in the public interest as the result of meaningful economic competition between providers of telecommunications service.

3. In order to facilitate introduction of a unified Telecommunications Reporting Worksheet,[6] we propose to: (1) Adopt a uniform schedule and location for filing contribution data; (2) encourage electronic filing of worksheets; (3) harmonize procedures for future changes to the proposed Telecommunications Reporting Worksheet; (4) authorize administrators to share contributor data in certain circumstances; (5) alter the revenue basis for assessing contributions to the TRS Fund and the NANP administration cost recovery mechanism; and (6) revise the minimum contribution requirements of the TRS Fund and the NANP administration cost recovery mechanism. In order to accomplish these changes, we propose limited changes to our rules[7] governing the administration of the TRS Fund, the administration of universal service support mechanisms, the cost recovery for the NANP administration, and the cost recovery for local number portability administration. Finally, we seek to further reduce carrier filing burdens by allowing carriers to use the proposed Telecommunications Reporting Worksheet to designate agents for service of process pursuant to section 413 of the Communications Act of 1934, as amended,[8] as well as to satisfy the reporting requirements of section 43.21(c) of our rules.[9]

4. With the limited exceptions noted above, we do not seek to revisit the substantive requirements of the four support and cost recovery mechanisms, the class of contributors to each mechanism, or the services whose revenues are included in contribution bases. Rather, the rulemaking focuses on steps to reduce burdens on contributors by improving the data collection process. In the Notice of Inquiry (NOI) portion of the proceeding, we request broader public comment on the feasibility and desirability of adopting other means to reduce contributor burdens, including possible use of a single billing and collection administrator for the TRS, universal service, NANP, and LNP support and cost recovery mechanisms.

II. Consolidating Contributor Reporting Requirements

A. Telecommunications Reporting Worksheet

5. To consolidate collection of contribution data for the universal service support mechanism, the TRS Fund, and the cost recovery mechanisms for NANP and LNP administrations, we propose a unified worksheet. The proposed Telecommunications Reporting Worksheet would replace the existing worksheets, forms, or other methods of collecting data for contributions to these support and cost recovery mechanisms, and could be used by carriers to identify agents for service of process as required by section 413 of the Act and to provide the revenue and plant data required under § 43.21(c) of the Commission's rules. We ask commenters to address the desirability of this proposal and to indicate whether such a unified worksheet would reduce the regulatory and administrative burden on reporting carriers and providers of telecommunications services. Alternatively, commenters should state whether any of these cost recovery mechanisms would be better served were we to continue collecting information through separate forms. We seek detailed comment on whether the items, set out in our proposed worksheet, are necessary and adequate to satisfy the underlying regulatory requirements on which contributions are based.

6. We ask commenters to quantify any savings that would be realized by these efforts to consolidate the data reporting process. We encourage commenters to indicate whether there might be any class of contributors whose burden would be increased by the combined worksheet. In addition, we ask commenters to specify any information in our proposed worksheet that is either unnecessary or duplicative, as well as any information that is omitted from our proposal but that must be obtained for one of the above purposes. We direct commenters to consider whether any of the changes proposed below would alter existing contracts with any respective administrators, such that the Commission might need to revisit those contracts. In assessing the desirability of this proposal, we ask commenters to state whether any potential risks or problems might outweigh the benefits of this proposal.

B. Uniform Schedule and Location for Filing Contribution Data

7. In our view, the utility of a consolidated worksheet would be significantly enhanced if carriers are able to file the form only once. As required in the filing instructions of the existing worksheets, currently contributors file the required worksheets at different times of the year. While the adoption of a single Telecommunications Reporting Worksheet makes possible a single filing date, we note that the universal service rules require that contributors file twice a year so that the Commission can develop contribution factors using relatively current information. We do not propose to disturb this procedure. Thus, carriers that are required to contribute to the universal service support mechanisms will continue to be required to file the new Telecommunications Reporting Worksheet on a semi-annual basis, in accordance with 47 CFR 54.711(a). Carriers exempt from contribution to the universal service support mechanism, but required to file for other purposes, would only file once a year. We propose that all carriers file the unified worksheet on April 1 of each year. We observe that most firms have closed their books for the prior calendar year in February or March. Thus, the April 1 date should allow most reporting carriers to prepare their submissions using audited data from closed books of account. While this would advance the date of filing for TRS purposes, we do not believe that this change would create a significant burden on contributors, particularly in light of the expected benefits of a uniform worksheet. We seek comment on this proposal. We also propose to revise the payment schedules for certain mechanisms so that payments to the TRS Fund and the NANPA and LNPA cost recovery mechanisms must be received by the first day of each month. If we adopt the proposed form, the Commission will incorporate this revised payment schedule when determining funding requirements and developing contribution factors. We seek comment on this proposal.

C. Basis for Assessing Contributions

8. Contributions to each of the four support or cost recovery mechanisms are based on some measure of revenue. In each case, carriers or other contributors calculate the amount of

---

[5] 47 USC 161. The Communications Act of 1934, as amended, (the Communications Act or the Act) is codified at 47 USC 151 *et seq.*

[6] The proposed Telecommunications Reporting Worksheet and accompanying instructions are attached to the Notice of Proposed Rulemaking as Appendix B.

[7] Proposed Rules are attached to the Notice of Proposed Rulemaking as Appendix A.

[8] 47 USC 413.

[9] 47 CFR 43.21(c). The Commission's rules are codified at Title 47 of the Code of Federal Regulations. 47 CFR 0.1 et seq.

their contribution to a particular mechanism by determining their proportion of a specified funding basis (or revenue basis). Under our current rules, contributions to these mechanisms are not calculated using the same funding basis. Thus, for example, contributions to the universal service support mechanisms and the LNPA cost recovery are based on the contributor's end-user telecommunications revenues. In contrast, contributions to the TRS Fund are based on gross telecommunications revenue and contributions to the NANPA cost recovery are based on net telecommunications revenue.

9. *Telecommunications Relay Services.* Congress, in section 225 of the Act, mandated that costs for interstate TRS be ''recovered from all subscribers for every interstate service.'' The Commission, in the TRS Third Report and Order, concluded that recovering interstate relay costs from all common carriers that provide interstate service on the basis of their gross interstate revenues would satisfy the statutory directive in section 225. As discussed below, the Commission considered basing TRS contribution on end-user telecommunications revenues, but, for reasons that we now reconsider, declined to adopt that revenue basis. Thus, contributions to the TRS Fund currently are made on the basis of the contributor's relative share of gross interstate telecommunications revenues.

10. In light of the Commission's experience since the TRS Third Report and Order, we propose to change the revenue basis for the TRS Fund, so that contributors will base their contribution on end-user telecommunications revenue, instead of gross telecommunications revenue. We believe that basing contributions on an end-user telecommunications revenue basis is consistent with the statutory language of section 225 and its requirement that ''costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service.'' The Commission has previously defined the term ''end-user telecommunications revenues'' to include not only all revenues from end-users, but also revenues derived from other sources, such as subscriber lines charges and revenues collected from carriers that purchase telecommunications services for their own internal use. We tentatively conclude that basing contributions to the TRS Fund on end-user telecommunications revenue will effectively carry out the mandate in section 225 that ''all subscribers'' of interstate services bear the cost of funding the interstate telecommunications relay services. We recognize that the TRS Fund administrator must collect and validate more data to administer contributions based on end-user telecommunications revenue, compared with contributions based on gross telecommunications revenue; however, this additional data will already be on the combined worksheet and therefore should represent little, if any, added burden to either contributors or the administrator. We seek comment on this tentative conclusion.

11. *North American Numbering Plan Administration.* In the case of NANPA cost recovery, section 251(e) of the Act directs that ''[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.'' The Commission, in the Local Competition Second Report and Order, required all telecommunications carriers to base their contributions to the NANPA cost recovery mechanism on net telecommunications revenues. That is, contributors must subtract from their gross telecommunications services revenues expenditures for all telecommunications services and facilities that had been paid to other telecommunications carriers. As described above, the Commission subsequently determined in the Universal Service Order that both a net telecommunications revenue basis, as currently used in numbering administration cost recovery, and an end-user telecommunications revenue basis, as used to calculate contributions for the universal service support mechanisms, are competitively neutral. The Commission opted to base contributions to the universal service support mechanisms on an end-user telecommunications revenues basis at least in part on the finding that calculating end-user telecommunications revenue would be more administratively efficient for reporting carriers and telecommunications providers.

12. On the basis of the analysis contained in the Universal Service Order, we reconsider our earlier decision and tentatively conclude that we should adopt an end-user telecommunications revenue basis for the purposes of NANPA cost recovery mechanism. We believe that an end-user telecommunications revenue basis would satisfy the requirement in section 251(e) that telecommunications carriers contribute to the NANPA cost recovery mechanism on a competitively neutral basis. Because section 251(e)(2) requires that we select a competitively neutral basis for contributions, but specifies no other criteria that must be used in the selection, we tentatively conclude that we have discretion under the statute to choose among competitively neutral mechanisms based upon other valid regulatory goals, such as administrative efficiency. We seek comment on this tentative conclusion.

D. Minimum and Fixed Annual Contributions to NANPA and TRS Mechanisms

13. We propose to revise our current requirements for minimum annual contributions by telecommunications carriers to the NANPA cost recovery. We propose a two-part structure for determining minimum contributions. We propose that telecommunications carriers with no end-user telecommunications revenues make a fixed contribution of one hundred dollars ($100) per year to the NANPA cost recovery mechanism. We tentatively conclude that this proposal satisfies the statutory language in section 251(e)(2) that the ''cost of establishing telecommunications numbering administration arrangements * * * shall be borne by all telecommunications carriers on a competitively neutral basis * * *.''

14. For those telecommunications carriers with any end-user telecommunications revenues, we propose to eliminate the minimum contribution rule because we are not certain that this amount is necessary to support the administrative costs of processing the worksheet and because of our desire to minimize burdens on the smallest carriers. Thus, we propose that these carriers simply calculate what they owe under our contribution formula and remit that amount, even if that amount is less than one hundred dollars ($100). We revisit, in the NPRM, the NANP Billing and Collection Agent's earlier decision regarding minimum contributions based on our experience with the NANPA and TRS mechanisms. We expect the administrative cost to process the NANPA worksheet to be less than one hundred dollars ($100) per worksheet. We further anticipate that the actions proposed here to streamline the contributor reporting process, particularly our proposals regarding electronic filing and sharing of information between administrators, will reduce administrative costs to process these worksheets. We seek comment about whether the costs to process this worksheet justify a

mandatory minimum contribution for the purposes of NANPA, other than that fixed contribution described above for carriers with no end-user telecommunications revenue.

15. *Telecommunications Relay Services.* Pursuant to § 64.604(c)(4)(iii) of the Commission's rules, every carrier providing interstate telecommunications services ''must contribute at least $100 per year.'' The Commission adopted this minimum contribution to maintain an ''efficiency of administration.''

16. We propose to eliminate the one hundred dollar ($100) minimum contribution rule as applied to the TRS Fund. Under our proposal, subject carriers (i.e., those providing interstate telecommunications services) would simply calculate what they owe under our contribution formula and remit that amount. Our experience with the TRS Fund and the NANPA cost recovery mechanism has indicated that, under our current rules, many small carriers are required to make a minimum contribution that is disproportionately large based on their total telecommunications revenues. We believe that this proposed change will provide a significant benefit to small telecommunications carriers. We realize that in the rarest instances the amount of a carrier's contribution may actually be smaller than the cost to process the application. We believe, however, that this inefficiency is outweighed by the benefits received by small carriers. We seek comment on this proposal.

E. Procedures for Future Changes to the Telecommunications Reporting Worksheet

17. We propose to delegate authority to make future changes to the Telecommunications Reporting Worksheet to the Chief of the Common Carrier Bureau. Should we adopt our proposal to combine the TRS Fund, NANP administration, LNP administration, and universal service support mechanism worksheets into one unified worksheet, it would be important to have a single, predetermined procedure for altering that worksheet. We believe that such changes will be necessary as an ordinary matter. For example, for the purposes of both the TRS Fund and the NANPA cost recovery, the Commission will need to revise the payment formulas on which contributions are based for each year. We believe it unnecessary for the Commission to review changes to the Telecommunications Reporting Worksheet that relate to these payment formulas or other ministerial tasks. Thus, we propose to amend our rules for the TRS Fund, NANP administration, LNP administration, and universal service support mechanisms, to include a specific delegation of authority to the Chief of the Common Carrier Bureau to make certain future changes to the combined worksheet. We seek comment on this proposal.

F. Authorize Sharing of Information Between Administrators

18. We propose to permit the sharing of billing and collection information between the TRS, universal service, NANP, and LNP administrators. This proposal would permit administrators to cross-check filed data and collection information where contributors are required to file for more than one purpose. We tentatively conclude that the administrators will benefit significantly from this flexibility. This proposal should reduce audit costs dramatically and should increase greatly the reliability of data on which contributions to these mechanisms are based. As an additional benefit, we also contemplate that this proposal might allow administrators to delegate certain functions, such that, e.g., one administrator might fulfill data entry and verification functions for more than one mechanism. At the same time, we propose to limit such sharing arrangements so as to ensure that proprietary information is not used for any improper purpose. Our proposed rule language would require that such agreements be approved by the Chief of the Common Carrier Bureau. We seek comment on this proposal.

19. We further propose, as currently allowed under the Universal Service Worksheet, to permit carriers filing the Telecommunications Reporting Worksheet to certify that the revenue data contained in their submissions are privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the entity filing the worksheet. Carriers would be able to make this certification on their Telecommunications Reporting Worksheet and request Commission nondisclosure of information contained in the worksheet by checking a box on the Worksheet, in lieu of submitting a separate request pursuant to § 0.459 of the Commission's rules. If the Commission receives a request for or proposes to disclose the information, the carrier would be required, of course, to make the full showing that our rules require in a request for withholding from public inspection information submitted to the Commission. All sharing arrangements entered into among administrators would have to provide that the administrators will comply with requests for confidential treatment of their data. We seek comment on this proposal.

G. Electronic Filing

20. We propose to require the administrators to provide for and encourage electronic filing of the consolidated form. Electronic filing reduces data entry expenses for the administrator, reduces confusion, and might allow some mistakes to be detected before carriers file data. We anticipate that the administrators would be able to develop an electronic filing package that assists carriers with the compilation of data, calculation of totals and contribution amounts, and that provides contextual help. Such a package would greatly reduce the filing burden on small carriers and would greatly reduce data entry and validation costs for the administrators. We expect that electronic filing would reduce burdens on reporting carriers because they would be able to work from the electronic copy of their prior year's filing and modify only the information that has changed, rather than reentering all of the information for every filing. Also, we envision that electronic filing software could eventually calculate TRS, NANPA, and LNPA contributions for the filers. We note that this proposal is consistent with the directives of the Office of Management and Budget (OMB).

21. We expect that any transition to an electronic filing system would require considerable coordination between the administrators, the telecommunications industry, and the Commission. We note that the technical details of how electronic filing is accomplished can be complex and expensive for both the administrators and reporting carriers. We seek comment on the nature and extent of these administrative costs. We seek specific recommendations on the appropriate time frame for development of electronic filing mechanisms and we ask commenters to consider any increased burden on the administrators and whether the Commission might need to adjust existing contracts with administrators to provide for this function.

22. In addition, we are committed to making electronic filing and other electronic applications accessible to persons with disabilities to the fullest extent possible. We note that electronic filing is subject to program accessibility requirements of section 1.850 of our rules. In addition Congress has revised the requirements for access by persons with disabilities to federal information

technology programs in the Workforce Investment Act of 1998.[10] We recognize that, in some instances, it may be difficult for persons with disabilities to access components of the proposed electronic filing. In particular, the accessibility of forms and certain types of electronic files raises complex technical issues. We will continue to work on these issues and fully expect that with advances in technology, we will be able to enhance the accessibility to persons with disabilities.

III. Notice of Inquiry

23. We issue the Notice of Inquiry to investigate additional steps we could take that might allow us to further rationalize the contribution mechanisms currently in place and reduce filing burdens on parties. We invite commenters to bring to our attention any such suggestions that would reduce burdens and maximize the efficiency of the contributor reporting requirements process, while maintaining accuracy and accountability in the administration of the mechanisms. In particular, we ask commenters to consider whether the Commission should consolidate all billing and collection functions for the four support and cost recovery mechanisms with a single agent. Under such a plan, a single billing and collection agent would have no responsibilities over the administration of the TRS Fund, the maintenance of universal service, the administration of numbering resources, or the maintenance of local number portability databases. A billing and collection agent would be charged with efficiently collecting contributions from all subject contributors.

24. We note that the Commission has taken other actions to promote efficiency and accountability in administration of the support and cost recovery mechanisms. For example, in the universal service proceeding, the Commission recently proposed that a single entity, USAC, administer universal service support for rural health care providers and schools and libraries, as well as the high cost and low income support mechanisms. We ask commenters to consider whether adoption of a single agent to perform billing and collection functions on a consolidated basis for the four support and cost recovery mechanisms would reduce administrative costs, lead to greater accountability, and promote the efficient and effective administration of the support and cost recovery mechanisms. In the NPRM, we ask parties to address a number of specific questions related to this proposal.

IV. Procedural Matters

A. Initial Paperwork Reduction Act Analysis

25. The Notice of Proposed Rulemaking contains a proposal to reduce existing information collections. As part of our continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the proposals contained in the Notice of Proposed Rulemaking, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Public and agency comments are due at the same time as other comments on the Notice of Proposed Rulemaking; OMB comments are due 60 days from the date of the publication of this summary of the Notice of Proposed Rulemaking in the **Federal Register**. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

B. Initial Regulatory Flexibility Act Analysis

26. As required by the Regulatory Flexibility Act (RFA),[11] the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in the NPRM. A copy of the IRFA is attached to this summary. Written public comments are requested with respect to the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the rest of the NPRM and they must have a separate and distinct heading, designating the comments as responses to the IRFA. The Office of Public Affairs, Reference Operations Division, will send a copy of the NPRM and Notice of Inquiry, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

C. Ex Parte Presentations

27. This proceeding will be treated as a ''permit-but-disclose'' proceeding subject to the ''permit-but-disclose'' requirements under § 1.1206 of the Commission's rules, as revised.[12] Additional rules pertaining to oral and written presentations are set forth in section 1.1206.

D. Comment Filing Procedures

28. *General.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on before October 30, 1998, and reply comments on or before November 16, 1998. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

29. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

30. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 1919 M St. NW, Room 222, Washington, DC 20554, with a copy

[10] Workforce Investment Act of 1998, Pub. L. 105–220, 112 Stat. 936 (Aug. 7, 1998). Section 508 of the Act provides that persons with disabilities and non-disabled persons must have comparable access and ability to use technology and electronic information, and federal agencies must take steps to ensure such comparable access for persons with disabilities unless an undue burden would be imposed. If an undue burden would be imposed, the agency must provide an alternative means of access that allows for persons with disabilities to access and use the information.

[11] See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[12] 47 CFR 1.1206.

to: Scott K. Bergmann, Common Carrier Bureau, Industry Analysis Division, 2033 M Street, NW, Room 500, Washington, DC 20554.

31. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Ms. Terry Conway, Common Carrier Bureau, Industry Analysis Division, 2033 M Street, NW, Room 500, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labelled with the commenter's name, proceeding (including the lead docket number in this case (CC Docket No. 98–171)), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC 20037.

List of Subjects

47 CFR Parts 1 and 43

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

47 CFR Part 52

Communications common carriers, Numbering administration, Number portability, Reporting and recordkeeping requirements, Telecommunications, Telephone.

47 CFR Part 54

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone, Universal service.

47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telecommunications relay services, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Attachment—Initial Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act (RFA),[1] the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the NPRM. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided above on the first page. The Commission will send a copy of the NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.[2]

I. Need for, and Objectives of, the Proposed Action

2. The Commission undertakes this examination of its contributor reporting requirements[3] as a part of its 1998 biennial review of regulations as required by section 11 of the Communications Act, as amended.[4] The NPRM proposes to simplify the Commission's filing requirements so that a single worksheet will replace several different forms currently filed under our existing rules associated with the Telecommunications Relay Services (TRS) Fund,[5] federal universal service support mechanisms,[6] the cost recovery mechanism for the North American Numbering Plan (NANP) administration,[7] and the cost recovery mechanism for long-term local number portability (LNP) administration.[8] Our objective is to reduce or eliminate unnecessary or duplicative regulatory requirements as competition supplants the need for such requirements, consistent with section 11 of the Communications Act, as amended,[9] and the Telecommunications Act of 1996.[10] The Commission tentatively concludes that it can reduce regulatory burdens imposed by the existing multiple filing requirements by combining current contributor reporting worksheets into one unified Telecommunications Reporting Worksheet.

II. Legal Basis

3. The legal basis for the action as proposed for this rulemaking is contained in sections 1, 4(i), 4(j), 11, 201–205, 210, 214, 218, 225, 251, 254, 303(r), 332, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 161, 201–205, 210, 214, 218, 225, 251, 254, 303(r), 332 and 403.

III. Description and Estimate of the Number of Small Entities to Which the Proposed Action May Apply

4. The Commission's contributor reporting requirements apply to a wide rage of entities, including all telecommunications carriers and other providers of interstate telecommunications that offer telecommunications for a fee.[11] Thus, we expect that the proposals set forth in this proceeding may have an economic impact on a substantial number of small entities. The economic impact of these proposals would, of course, be a positive and beneficial impact, in the form of reduced regulatory burdens and recordkeeping requirements, for these entities.

5. To estimate the number of small entities that would benefit from this positive economic impact, we first consider the statutory definition of ''small entity'' under the RFA. The RFA generally defines ''small entity'' as having the same meaning as the term ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''[12] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities.[13] Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).[14] The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone

[1] See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] See 5 U.S.C. 603(a).

[3] See 47 CFR 64.601 *et seq.*; 47 CFR 54.1 *et seq.*; 47 CFR 52.1 *et seq.*; 47 CFR 52.21 *et seq.*

[4] 47 U.S.C. 161.

[5] 47 CFR 64.601 *et seq.*

[6] 47 CFR 54.1 *et seq.*, 69.1 *et seq.*

[7] 47 CFR 52.1 *et seq.*

[8] 47 CFR 52.21 *et seq.*

[9] 47 U.S.C. 161.

[10] Telecommunications Act of 1996, Pub. L. 104–104, 110 Stat. 56 (1996 Act), codified at 47 U.S.C. 151 *et seq.* See Joint Explanatory Statement of the Committee of Conference, S. Conf. Rep. No. 230, 104th Cong., 2d Sess. 113 (1996) (Joint Explanatory Statement).

[11] 47 CFR 52.17 (applying to all telecommunications carriers), 52.32 (applying to all telecommunications carriers), 54.703 (applying to every telecommunications carrier that provides interstate telecommunications services, every provider of interstate telecommunications that offers telecommunications for a fee on a non-common carrier basis, and certain payphone providers), 64.604(c)(4)(iii)(A) (applying to every carrier providing interstate telecommunications services). We note that the Commission's rules for universal service exempt certain small contributors, i.e., contributors that have revenue below a stated threshold. 47 CFR 54.705.

[12] 5 U.S.C. 601(6).

[13] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 5 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition in the **Federal Register**.''

[14] 15 U.S.C. 632. See, e.g., *Brown Transport Truckload, Inc.* v. *Southern Wipers, Inc.*, 176 B.R. 82 (N.D. Ga. 1994).

Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees.[15] We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules. We expect that not all of the entities within a given category necessarily offer carrier services or interstate telecommunications services for a fee. Nevertheless, out of an abundance of caution, we analyze a wide range of categories in an effort to identify the greatest number of small entities possible that could be effected by the proposals in the NPRM.

6. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its Telecommunications Industry Revenue report, regarding the Telecommunications Relay Service (TRS).[16] According to data in the most recent report, there are 3,459 interstate carriers.[17] These carriers include, inter alia, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

7. Although some affected incumbent local exchange carriers (ILECs) may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not ''small entities'' or ''small business concerns'' under the RFA. Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass small ILECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small ILECs within this analysis and use the term ''small ILECs'' to refer to any ILECs that arguably might be defined by the SBA as ''small business concerns.'' [18]

8. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.[19] This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' [20] For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the NPRM.

9. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992.[21] According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons.[22] All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the proposals recommended for adoption in the NPRM.

10. *Local Exchange Carriers.* Neither the Commission nor SBA has developed a definition of small providers of local exchange services (LECs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS).[23] According to our most recent data, 1,371 companies reported that they were engaged in the provision of local exchange services.[24] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,371 small entity LECs or small incumbent LECs that may be affected by the proposals recommended for adoption in the NPRM.

11. *Interexchange Carriers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone companies.[25] The most reliable source of information regarding the number of IXCs nationwide of which we are aware appears to be the data that we collect annually in connection with TRS. According to our most recent data, 143 companies reported that they were engaged in the provision of interexchange services.[26] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 143 small entity IXCs that may be affected by the proposals recommended for adoption in the NPRM.

12. *Competitive Access Providers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone companies. The most reliable source of information regarding the number of CAPs nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 109 companies reported that they were engaged in the provision of competitive access services.[27] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 109 small entity CAPs that may be affected by the proposals recommended for adoption in the NPRM.

13. *Operator Service Providers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of operator services.

[15] 13 CFR 121.201.

[16] FCC, Telecommunications Industry Revenue: TRS Fund Worksheet Data, Figure 2 (Number of Carriers Paying Into the TRS Fund by Type of Carrier) (Nov. 1997) (Telecommunications Industry Revenue).

[17] *Id.*

[18] See 13 CFR 121.201, SIC Code 4813. Since the time of the Commission's 1996 decision, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, 11 FCC Rcd 15499, 16144–45 (1996), 61 FR 45476 (August 29, 1996), the Commission has consistently addressed in its regulatory flexibility analyses the impact of its rules on such ILECs.

[19] United States Department of Commerce, Bureau of the Census, 1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size, at Firm Size 1–123 (1995) (1992 Census).

[20] 15 U.S.C. 632(a)(1).

[21] 1992 Census, supra, at Firm Size 1–123.

[22] 13 CFR 121.201, SIC Code 4813.

[23] See 47 CFR 64.601 et seq.

[24] Telecommunications Industry Revenue at Fig. 2.

[25] 13 CFR 121.210, SIC Code 4813.

[26] Telecommunications Industry Revenue at Fig. 2.

[27] Telecommunications Industry Revenue at Fig. 2.

The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone companies. The most reliable source of information regarding the number of operator service providers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 27 companies reported that they were engaged in the provision of operator services.[28] Although it seems certain that some of these companies are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 27 small entity operator service providers that may be affected by the proposals recommended for adoption in the NPRM.

14. *Resellers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable definition under SBA rules is for all telephone communications companies.[29] The most reliable source of information regarding the number of resellers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 339 companies reported that they were engaged in the resale of telephone services.[30] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 339 small entity resellers that may be affected by the proposals recommended for adoption in the NPRM.

15. *Wireless (Radiotelephone) Carriers.* SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.[31] According to SBA's definition, a small business radiotelephone company is one employing no more than 1,500 persons.[32] The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the proposals recommended for adoption in the NPRM.

16. *Cellular and Mobile Service Carriers.* In an effort to further refine our calculation of the number of radiotelephone companies affected by the rules adopted herein, we consider the categories of radiotelephone carriers, Cellular Service Carriers and Mobile Service Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to Cellular Service Carriers and to Mobile Service Carriers. The closest applicable definition under SBA rules for both services is for telephone companies other than radiotelephone (wireless) companies.[33] The most reliable source of information regarding the number of Cellular Service Carriers and Mobile Service Carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 804 companies reported that they are engaged in the provision of cellular services and 117 companies reported that they are engaged in the provision of mobile services.[34] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of Cellular Service Carriers and Mobile Service Carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 804 small entity Cellular Service Carriers and fewer than 138 small entity Mobile Service Carriers that might be affected by the proposals recommended for adoption in the NPRM.

17. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added, and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.[35] These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by SBA.[36] No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. However, licenses for Blocks C through F have not been awarded fully, therefore there are few, if any, small businesses currently providing PCS services. Based on this information, we conclude that the number of small broadband PCS licenses will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small PCS providers as defined by the SBA and the Commissioner's auction rules.

18. *SMR Licensees.* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small entity'' in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than $15 million in the three previous calendar years. The definition of a ''small entity'' in the context of 800 MHz SMR has been approved by the SBA,[37] and approval for the 900 MHz SMR definition has been sought. The rules proposed in the NPRM may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than $15 million. We assume, for purposes of this IRFA, that all of the extended implementation authorizations may be held by small entities, that may be affected by the proposals recommended for adoption in the NPRM.

19. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees that may be affected by the proposals in the NPRM includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. The Commission, however, has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we assume, for purposes of this IRFA, that all of the licenses may be awarded to small entities who may

[28] Telecommunications Industry Revenue at Fig. 2.

[29] 13 CFR 121.210, SIC Code 4813.

[30] Telecommunications Industry Revenue at Fig. 2.

[31] 1992 Census, *supra*, at Firm Size 1–123.

[32] 13 CFR 121.201, SIC Code 4812.

[33] Id.

[34] Telecommunications Industry Revenue at Fig. 2.

[35] *Id.*, at ¶ 60.

[36] Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93–253, Fifth Report and Order, 9 FCC Rcd 5532, 5581–84 (1994).

[37] See Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz and the 935–940 MHz Bands Allotted to the Specialized Mobile Radio Pool, PR Docket No. 89–583, Second Order on Reconsideration and Seventh Report and Order, 11 FCC Rcd 2639, 2693–702 (1995); Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93–144, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking, 11 FCC Rcd 1463 (1995).

be affected by the proposals recommended for adoption in the NPRM.

20. *220 MHz Radio Services.* Because the Commission has not yet defined a small business with respect to 220 MHz services, we will utilize the SBA definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons.[38] With respect to 220 MHz services, the Commission has proposed a two-tiered definition of small business for purposes of auctions: (1) for Economic Area (EA) licensees, a firm with average annual gross revenues of not more than $6 million for the preceding three years and (2) for regional and nationwide licensees, a firm with average annual gross revenues of not more than $15 million for the preceding three years. Given that nearly all radiotelephone companies under the SBA definition employ no more than 1,500 employees (as noted *supra*), we will consider the approximately 1,500 incumbent licensees in this service as small businesses under the SBA definition.

21. *Private and Common Carrier Paging.* The Commission has proposed a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services.[39] Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million, or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Because the SBA has not yet approved this definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons.[40] At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent TRS data, 172 carriers reported that they were engaged in the provision of either paging or ''other mobile'' services, which are placed together in the data.[41] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 172 small paging carriers that may be affected by the proposed rules, if adopted. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

22. *Narrowband PCS.* The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

23. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.[42] A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).[43] We will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons.[44] There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

24. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.[45] Accordingly, we will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons.[46] There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA definition.

25. *Private Land Mobile Radio (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities.[47] These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area.

26.The Commission is unable at this time to estimate the number of, if any, small businesses which could be impacted by the rules. However, the Commission's 1994 Annual Report on PLMRs[48] indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the proposed rules in this context could potentially impact every small business in the United States.

27. *Fixed Microwave Services.* Microwave services include common carrier,[49] private-operational fixed,[50] and broadcast auxiliary radio services.[51] At present, there are approximately 22,015 common carrier fixed licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, we will utilize the SBA's definition applicable to radiotelephone companies—i.e., an entity with no more than 1,500 persons.[52] We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

28. *Offshore Radiotelephone Service.* This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico.[53] At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small entities under the SBA's definition for radiotelephone communications.

29. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and

[38] 13 CFR 121.201, SIC Code 4812.

[39] See 47 CFR 20.9(a)(1) (noting that private paging services may be treated as common carriage services).

[40] 13 CFR 121.201, SIC Code 4812.

[41] Telecommunications Industry Revenue at Fig. 2.

[42] The service is defined in section 22.99 of the Commission's rules, 47 CFR 22.99.

[43] BETRS is defined in sections 22.757 and 22.759 of the Commission's rules, 47 CFR 22.757, 22.759.

[44] 13 CFR 121.201, SIC Code 4812.

[45] The service is defined in section 22.99 of the Commission's rules, 47 CFR 22.99.

[46] 13 CFR 121.201, SIC Code 4812.

[47] See 47 CFR 20.9(a)(2) (noting that certain Industrial/Business Pool service may be treated as common carriage service).

[48] Federal Communications Commission, 60th Annual Report, Fiscal Year 1994, at 116.

[49] 47 CFR 101 et seq. (formerly, Part 21 of the Commission's Rules).

[50] Persons eligible under Parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. See 47 CFR Parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

[51] Auxiliary Microwave Service is governed by Part 74 of Title 47 of the Commission's Rules. See 47 CFR 74 et seq. Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

[52] 13 CFR 121.201, SIC Code 4812.

[53] This service is governed by Subpart I of Part 22 of the Commission's Rules. See 47 CFR 22.1001–22.1037.

one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees affected includes these eight entities.

IV. Description of Proposed Reporting, Recordkeeping, and Other Compliance Requirements

30. The proposals under consideration in the NPRM would reduce the reporting and recordkeeping requirements on telecommunications service providers regulated under the Communications Act. The Commission proposes to reduce regulatory burdens imposed by the existing multiple filing requirements by combining current contributor reporting worksheets into one unified Telecommunications Reporting Worksheet. In addition, the Commission seeks to further reduce carrier filing burdens by allowing carriers to use the proposed Telecommunications Reporting Worksheet to designate agents for service of process pursuant to section 413 of the Communications Act of 1934, as amended,[54] as well as to satisfy the reporting requirements of section 43.21 of our rules.[55] Should the Commission adopt these proposals, we expect that telecommunications service providers would experience a significant reduction in reporting, recordkeeping, and other compliance burdens.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

31. The impact of this proceeding should be beneficial to small businesses because the proposals set out in the NPRM would reduce the reporting or recordkeeping requirements on all communications common carriers. As noted above in the NPRM,[56] we seek comment on the desirability of this proposal and ask commenters to indicate whether a unified worksheet would reduce regulatory and administrative burden on reporting carriers. Alternatively, we ask commenters to indicate whether there might be any class of contributors whose burden would be increased by the unified worksheet.[57]

VI. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

32. None.

[FR Doc. 98–27060 Filed 10–7–98; 8:45 am]

BILLING CODE 6712–01–P

[54] 47 USC 413.

[55] 47 CFR 43.21(c). The Commission's rules are codified at Title 47 of the Code of Federal Regulations. 47 CFR 0.1 *et seq.*

[56] See NPRM at ¶ 19, *supra.*

[57] See NPRM at ¶ 20, *supra.*

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 25

[IB Docket No. 98–172; FCC 98–235]

Redesignation of the 18 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the Ka-band, and the Allocation of Additional Spectrum for Broadcast Satellite Service Use

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this Notice of Proposed Rulemaking (NPRM) the Commission proposes redesignation of the 17.7–19.7 GHz band; blanket licensing procedures for satellite earth stations in the Ka-band (17.7–20.2 GHz, space-to-Earth transmit frequencies and 27.5–30.0 GHz, Earth-to-space transmit frequencies); and the allocation of additional spectrum for the Broadcast Satellite Service (BSS) in the 17.3–17.8 GHz and 24.75–25.25 GHz frequency bands. The proposed redesignation of the 17.7–19.7 GHz band will separate terrestrial fixed service and fixed satellite service operations and allow for more efficient use of this spectrum. We believe that blanket licensing will provide a fast and efficient means for licensing the large numbers of Ka-band satellite earth stations expected to be deployed. Finally, the proposed BSS allocation will conform our domestic allocation to the International Telecommunication Union (''ITU'') Region 2 BSS allocation and will provide additional spectrum for direct-to-home video services.

DATES: Comments are due on or before November 5, 1998, and reply comments are due on or before December 7, 1998.

Written comments by the public on the proposed information collections are due on or before November 5, 1998. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before December 7, 1998.

ADDRESSES: Office of the Secretary, Room 222, Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Charles Magnuson, Planning and Negotiation Division, International Bureau, (202) 418–2159. For further information concerning the information collections contained in this NPRM contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's NPRM, (FCC 98–235) adopted September 17, 1998, and released September 18, 1998. The complete text of this Commission action, including the proposed rules, is available for inspection and copying during the weekday hours of 9 a.m. and 4:30 p.m. in the Commissions Reference Center, Room 239, 1919 M Street, N.W., Washington, DC, or copies may be purchased from the Commission's duplicating contractor, ITS, Inc., 2131 M Street, N.W., Washington, DC 20036, phone (202) 857–3800. The complete text is also available under the file name fcc98235.txt or fcc98235.wp on the Commission's internet site at http://www.fcc.gov /Bureaus/International/Notices/1998.

To file formally in this proceeding, comments can be filed using the Commission's Electronic Comment Filing System (ECFS). *See* Electronic Filing of Documents in Rulemaking Proceedings (63 FR 24121, May 1, 1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

Parties may also choose to file comments by paper. To file by paper, parties must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional

copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 1919 M St. N.W., Room 222, Washington, D.C. 20554.

Paperwork Reduction Act

This NPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB notification of action is due December 7, 1998. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–XXXX.

Title: Annual Reporting Requirement for Blanket Licensing of Ka-band Satellite Earth Stations.

Form No.: Not applicable.

Type of Review: New Collection for Annual Reporting.

Respondents: Businesses or other for profit.

Number of Respondents: 15.

Estimated Time Per Response: 1 hour for annual reporting.

Total Annual Burden: 15 hours.

Estimated costs per respondent: $150.

Needs and Uses: The annual reporting requirement is needed to evaluate the rollout of new satellite services. This will enable the Commission to determine if Ka-band spectrum is being effectively utilized.

Synopsis of the Notice of Proposed Rulemaking

1. We propose to provide primary designations for: (1) terrestrial fixed services use in the 17.7–18.3 GHz band; (2) Geostationary Orbit Fixed Satellite Service (''GSO/FSS'') use in the 18.3–18.55 GHz band; and, (3) Non-Geostationary Orbit Fixed Satellite Service (''NGSO/FSS'') use in the 18.8–19.3 GHz band. We propose to retain the co-primary designations for: (1) terrestrial fixed service use and GSO/FSS use in the 18.55–18.8 GHz band; and, (2) terrestrial fixed service use and Mobile Satellite Service Feeder Link (''MSS/FL'') use in the 19.3–19.7 GHz band. We request comment on this proposed band plan, as well as on possible modifications to the proposal that would allow continued sharing in additional portions of the 17.7–19.7 GHz band. We also seek comment on whether there is any means by which terrestrial fixed service and FSS could feasibly continue to share the entire band.

2. We also propose to grandfather terrestrial fixed service operations that have been licensed or for which applications are pending, as of the release date of this NPRM, for any band that is proposed to be designated for fixed satellite service use on a primary basis. Under this proposal, new terrestrial fixed service applications could continue to be filed and granted after the release date, but the licensees would have only secondary status in those bands designated for fixed satellite service use on a primary basis. We also request comment on the need to allow relocation of existing terrestrial fixed service operations if satellite operators are unable to design their systems to avoid interference from such operations. In addition, we request comment on what relocation procedures should be used. As an exception to the preceding discussion on grandfathering, we propose to continue licensing low power point-to-multipoint terrestrial fixed systems in the 18.82–18.87 GHz and 18.16–19.21 GHz bands on a primary basis. Since these systems are limited to an equivalent isotropically radiated power of 1 watt, we do not anticipate that the operation of these systems will cause interference to FSS earth station operations.

3. In addition, we propose a blanket licensing procedure that would allow Ka-band FSS satellite earth stations to operate under a single system license in bands that are designated for their primary use. Thus, we propose to allow blanket licensing of GSO/FSS satellite earth stations in the existing GSO/FSS bands, 19.7–20.2 GHz, 28.35–28.6 GHz, and 29.5–30 GHz and, in conjunction with our proposed band, the 18.3–18.55 GHz band. In addition, we propose to allow blanket licensing of NGSO/FSS earth stations in the 18.8–19.3 GHz and 28.6–29.1 GHz bands. We believe that blanket licensing will provide a fast and efficient means for licensing the large numbers of small antenna FSS earth stations expected to be deployed.

4. Finally, we propose to allocate additional spectrum for the Broadcast Satellite Service (''BSS'') and we propose to conform this allocation to the International Telecommunication Union (''ITU'') Region 2 BSS allocation. Specifically, we propose to allocate the 17.3–17.8 GHz band to BSS; to allocate the 24.75–25.25 GHz band to Fixed Satellite Service (''FSS'') for BSS feeder link use; and to implement these allocations effective April 1, 2007. These proposed allocations will provide additional spectrum for direct-to-home video services. This increased amount of spectrum should allow BSS operators to offer an increased variety of programming and services which would enhance competition in the multichannel video programming market. We address the BSS allocation in this proceeding because part of the spectrum allocated (17.7–17.8 GHz) is also involved in our band redesignation plan.

5. We note that United States Government systems are authorized to operate in the 17.8–20.2 GHz band in accordance with footnote US334 in the United States Table of Frequency Allocations. This NPRM concerns only non-Government operations; coordination between Government and non-Government operations will continue to remain in effect.

6. On December 23, 1996, Lockheed Martin Corporation, AT&T Corp., Hughes Communications, Inc., Loral Space & Communications Ltd., and GE American Communications, Inc. (''Petitioners'') filed a joint Petition for Rulemaking proposing blanket licensing for GSO/FSS earth stations operating in certain portions of the Ka-band. On January 16, 1997, the Commission placed the petition on Public Notice and assigned it rulemaking number RM–9005. Teledesic Corporation, licensee of a NGSO/FSS system in the Ka-band, filed comments supporting the petition and proposed that the rulemaking proceeding be expanded to include blanket licensing for all types of satellite earth stations in the Ka-band, including NGSO/FSS earth stations. On September 5, 1997, the Commission issued a Public Notice requesting comments on issues raised by the petition and to refresh the record.

7. On June 5, 1997, DIRECTV Enterprises, Inc., (''DIRECTV'') filed a Petition for Rulemaking proposing to reallocate the 24.75–25.25 GHz band to FSS for BSS feeder link use and the 17.3–17.8 GHz band to BSS for its downlinks. In addition, DIRECTV requested that the Commission adopt a 4.5° orbital spacing policy in licensing BSS space stations to operate in the

17.3–17.8 GHz and 24.75–25.25 GHz bands. On July 1, 1997, the Commission placed this petition on public notice and assigned it rulemaking number RM–9118. We address the DIRECTV petition in this rulemaking due to the potential impact of the proposed band plan on a BSS downlink allocation at 17.7–17.8 GHz.

Initial Regulatory Flexibility Analysis

8. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking. See 5 U.S.C. § 603. The RFA, see, 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law No. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice of Proposed Rulemaking provided. The Commission will send a copy of the Notice of Proposed Rulemaking, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a).

A. Need for, and Objectives of, the Proposed Rules

9. This rulemaking proceeding is being initiated to obtain comment and develop a record on certain proposals in the 17.7–20.2 GHz and 27.5–30.0 GHz frequency bands. Specifically, this Notice proposes to redesignate the 17.7–19.7 GHz frequency band to designate for use separate band segments for terrestrial fixed service and fixed satellite services and establish service rules for ''blanket licensing'' of the satellite services in the 17.7–20.2 GHz and 27.5–30.0 GHz bands. We are also seeking comments on proposals for sharing of the 17.7–19.7 GHz frequency band. The Commission seeks to develop a blanket license procedure for the implementation of Ka-band satellite systems. In addition, this rulemaking proceeding is being initiated to obtain comment and develop a record on the proposed Allocation of additional spectrum in the 17.3–17.8 GHz and 24.75–25.25 GHz band to accommodate BSS operations.

B. Legal Basis

10. The proposed action is authorized under Sections 1, 4(i), 4(j), 301, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, and 303.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules May Apply

11. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 5 U.S.C. 603(b)(3). The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' 5 U.S.C 601(6). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3). A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Small Business Act, 15 U.S.C. 632 (1996). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' 5 U.S.C. 601(4). ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' 5 U.S.C. 601(5). Below, we further describe and estimate the number of small entity licensees that may be affected by the proposed rules, if adopted.

12. The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating $11 million or less in revenue annually. This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's Rules, a ''small cable company,'' is one serving fewer than 400,000 subscribers nationwide. The Communications Act also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.''

International Services

13. The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC). An exception is the Direct Broadcast Satellite (DBS) Service. This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts. 13 CFR 120.121, SIC code 4899.

14. Currently there are no authorized fixed satellite transmit/receive earth stations authorized for use in the 17.7–20.2 GHz band. However, with 13 GSO/FSS licensees and 1 NGSO/FSS licensee we expect FSS earth stations to appear in the near future. There are two Mobile Satellite Earth Station Feeder Link licensees. Commission records reveal that there are 13 space station licensees in the Ka-band. There are three Non-Geostationary Space Station licensees, of which only one system is operational. Direct Broadcast Satellites, because DBS provides subscription services, DBS falls within the SBA definition of Cable and Other Pay Television Services (SIC 4841). This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts. As of December 1996, there were eight DBS licensees. Auxiliary, Special Broadcast and other program distribution services. This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. Therefore, the applicable definition of small entity is the

definition under the Small Business Administration (SBA) rules applicable to radio broadcasting stations (SIC 4832) and television broadcasting stations (SIC 4833). These definitions provide, respectively, that a small entity is one with either $5.0 million or less in annual receipts or $10.5 million in annual receipts. 13 CFR 121.201, SIC CODES 4832 and 4833. Microwave services includes common carrier, private operational fixed, and broadcast auxiliary radio services. Inasmuch as the Commission has not yet defined a small business with respect to microwave services, we will utilize the SBA's definition applicable to radiotelephone companies—i.e., an entity with no more than 1,500 persons. 13 CFR 121.201, SIC CODE 4812. We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

15. The Commission's existing rules in Part 25 on FSS operations contain reporting requirements for FSS systems, and we propose to modify these reporting requirements to eliminate duplicative costs of filing multiple applications. In addition, we propose to add an annual reporting requirement to indicate the number of satellite earth stations actually brought into service. The proposed blanket licensing procedures do not affect small entities disproportionately and it is likely no additional outside professional skills are required to complete the annual report indicating the number small antenna earth stations actually brought into service. We seek comment on these proposed changes.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

16. This Notice solicits comment on several alternatives for spectrum sharing, blanket licensing, and band segmentation. This item should positively impact both large and small businesses by providing a faster, more efficient, and less economically burdensome coordination and licensing procedure. The proposed blanket licensing service rules provide for consolidation of licensing for small antenna earth stations, a simplification of compliance procedures, and one new minor annual reporting requirement which indicates the number of satellite earth stations brought into service in the last year.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

17. None.

Ordering Clauses

18. Accordingly, it is ordered that pursuant to the authority contained in Sections 1, 4(i), 4(j), 301, 303, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, 303 and 403, a Notice of Proposed Rulemaking, as described in the complete text of FCC 98–235, is adopted.

19. It is further ordered that the Petition filed by Lockheed Martin Corporation, et al., is granted to the extent indicated in the complete text of the NPRM and otherwise denied.

20. It is further ordered that the Petition filed by DIRECTV Enterprises, Inc. is granted to the extent indicated in the complete text of the NPRM and otherwise denied.

21. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 25

Reporting and recordkeeping requirements, Satellites.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

Part 25 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for Part 25 continues to read as follows:

Authority: 47 U.S.C. 701–744. Interprets or applies sec. 303, 47 U.S.C. 303. 47 U.S.C. sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

2. Section 25.115 is amended by adding a new paragraph (e) to read as follows:

§ 25.115 Application for earth station authorizations.

* * * * *

(e) Geostationary fixed-satellite service earth stations operating in the 18.3–18.55 GHz, 19.7–20.2 GHz, 28.35–28.6 GHz, and 29.5–30 GHz bands need not be individually licensed. Applications to license small antennas may be filed on FCC Form 312, Main Form and Schedule B, and specifying the number of units to be covered by the blanket license. Each application for a blanket license under this section shall conform to the requirements specified in § 25.138.

3. A new § 25.138 is added to read as follows:

§ 25.138 Licensing provisions for geostationary fixed-satellite service earth stations operating in the 18.3–18.55 GHz, 19.7–20.2 GHz, 28.35–28.6 GHz, and 29.5–30.0 GHz bands.

(a) All applications for geostationary fixed-satellite service earth station licenses operating in the 18.3–18.55 GHz, 19.7–20.2 GHz, 28.35–28.6 GHz and 29.5–30 GHz bands will be routinely processed provided the following criteria are met:

(1) Emissions from associated geostationary space stations shall operate with a maximum downlink power flux density at the Earth's surface as specified in § 25.208.

(2) In the plane of the geostationary satellite orbit as it appears at the particular earth station location, the uplink EIRP density of any earth station antenna operating in the 28.35–28.6 GHz or 29.5–30 GHz band under clear sky conditions shall lie below the envelope defined below:

$35 - 25 \log_{10}(\Theta)$ dBW/MHz $1° \le \Theta \le 7°$
13.9 dBW/MHz $7° < \Theta \le 9.2°$
$38 - 25 \log_{10}(\Theta)$ dBW/MHz $9.2° < \Theta \le 48°$
-4 dBW/MHz $48° < \Theta \le 180°$

where Θ is the angle, in degrees, from the axis of the main lobe. For the purposes of this section, the peak EIRP density of an individual sidelobe may not exceed the envelope defined above for Θ between 1° and 7°. for Θ greater than 7°, the envelope may be exceeded by no more than 10% of the side lobes, provided that no individual sidelobe exceeds the EIRP density envelope given above by more that 3 dB.

(3) In all other directions, or in the plane of the horizon including any out-of-plane potential terrestrial interference paths:

(i) Outside the main beam, the uplink EIRP density under clear sky conditions shall lie below the envelope defined by:

$38 - 25 \log_{10}(\Theta)$ dBW/MHz $1° \le \Theta \le 48°$
-4 dBW/MHz $48° < \Theta \le 180°$

(ii) For the purposes of this section, the envelope may be exceeded by no more than 10% of the sidelobes provided no individual sidelobe exceeds the EIRP density envelope by more than 6 dB. The region of the main

reflector spillover energy is to be interpreted as a single lobe and shall not exceed the envelope by more than 6 dB.

(b) Applicants for earth station licenses in the fixed-satellite service, proposing to operate with maximum downlink PFD values or maximum uplink EIRP densities in excess of the threshold values defined by paragraph (a) of this section, shall bear the burden of coordinating with any applicants or licensees whose satellite or proposed compliant earth station, as defined by paragraph (a) of this section, is potentially or actually adversely affected by the operation of the non-compliant licensee. Applicants shall provide proof by affidavit that all potentially affected parties acknowledge and do not object to the use of the applicant's higher power density.

(c) Applicants for earth station licensing authorization shall submit a technical description of how they will comply with the requirement for uplink automatic power control or other methods of fade compensation, as specified in § 25.204(f).

(d) Licensees shall notify the Commission in writing on a yearly basis, specifying the number of earth stations actually brought into service.

4. Section 25.208 is amended by revising paragraph (c) introductory text and by adding a new paragraph (d) to read as follows:

§ 25.208 [Amended]

* * * * *

(c) In the 17.70–18.30 GHz, 18.55–19.70 GHz, 22.55–23.00 GHz, 23.00–23.55 GHz, and 24.45–24.75 GHz frequency bands, the power flux density at the Earth's surface produced by emissions from a space station for all conditions and for all methods of modulation shall not exceed the following values:

* * * * *

(d) In the 18.30–18.55 GHz and 19.7–20.2 GHz frequency bands, the power flux density at the Earth's surface produced by emissions from a space station for all conditions and for all methods of modulation shall not exceed −120 dBW/m^2/MHz averaged over any contiguous 40 MHz band segment, and −118 dB (W/m^2) in any 1 MHz band, for all angles of arrival.

[FR Doc. 98–26994 Filed 10–7–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 229, 231, and 232

[FRA Docket No. PB–9; Notice No. 14]

RIN 2130—AB16

Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of Public Hearings and Technical Conference.

SUMMARY: By notice of proposed rulemaking (NPRM) published on September 9, 1998 (63 FR 48294), FRA proposed revisions to the regulations governing the power braking systems and equipment used in freight and other non-passenger railroad train operations. In that proposed rule, FRA announced that it would schedule two public hearings and one technical conference to allow interested parties the opportunity to comment on issues addressed in the NPRM. This document announces the public hearings and technical conference.

DATES: (1) *Public Hearings:* Two public hearings will be held on the dates and at the locations listed below to provide interested parties the opportunity to comment on the proposed revisions contained in the NPRM. The dates of the public hearings are as follows:

Monday, October 26, 1998 at 9:00 a.m. in Kansas City, Missouri.

Friday, November 13, 1998 at 9:30 a.m. in Washington D.C.

(2) *Technical Conference:* A technical conference will be held on Monday, November 23 and Tuesday, November 24, 1998 at 9:00 a.m. near San Francisco, California. The technical conference is intended to provide interested parties the opportunity to comment on the proposed revisions contained in the NPRM and to provide interested parties the ability to specifically discuss various technical issues identified below.

ADDRESSES: (1) *Public Hearings:* Hearings to provide interested parties the opportunity to comment on the proposed revisions contained in the NPRM will be held at these locations:

Kansas City, Missouri: Federal Building, 601 East 12th Street, Room 111, Kansas City, Missouri 64105.

Washington, D.C.: Federal Aviation Administration (FAA) Auditorium, Third Floor, Federal Office Building 10A, 800 Independence Avenue, S.W., Washington, D.C. 20591.

(2) *Technical Conference:* A technical conference will be conducted in the San Francisco area at: Embassy Suites Walnut Creek, 1345 Treat Boulevard, Walnut Creek, California 94596. See **SUPPLEMENTARY INFORMATION** for details.

(3) *Docket Clerk:* Written notification should identify the docket number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, RCC–10, 400 Seventh Street, Stop 10, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION, CONTACT: Leon Smith, Deputy Regional Administrator—Region 3, FRA Office of Safety, RRS–14, 400 Seventh Street, S.W., Stop 25, Washington, D.C. 20950 (telephone 404–562–3800), or Thomas Herrmann, Trial Attorney, Office of the Chief Counsel, RCC–10, 400 Seventh Street, S.W., Stop 10, Washington, D.C. 20950 (telephone 202–493–6053).

SUPPLEMENTARY INFORMATION:

Technical Conference

The technical conference will address specific technical issues that might not be addressed in the oral comments presented at the public hearings. These include:

- Issues related to dynamic brakes, particularly the concerns raised in recent recommendations issued by the National Transportation Safety Board (NTSB) and other issues related to safely negotiating heavy grades with loaded, high capacity cars in the consist. See 63 FR 48313–15, NTSB Recommendations R–98–1 through 98–7 (February 25, 1998).
- Issues related to two-way end-of-train devices, such as: bench testing; doubling hills; and heavy grade operations. See 63 FR 48322–23.
- Issues related to the securement of standing equipment. See 63 FR 48331–32.
- Issues related to the performance of brake tests utilizing yard air sources. See 63 FR 48344.
- Issues related to the use and operation of Helper Link devices. See 63 FR 48345.

FRA invites all interested parties to participate in the technical conference. FRA believes that technical discussion from all interested parties will contribute to an effective final regulation. For this conference to be successful, participants should be prepared to discuss, at a minimum, the issues identified above and provide reasonable alternatives. FRA also encourages participants to bring supporting documentation where appropriate.

Public Participation Procedures

Any person wishing to participate in either the public hearings or the technical conference should notify the Docket Clerk by mail at the address provided in the **ADDRESSES** section at least five working days prior to the date of the hearing or conference and submit three copies of the oral statement that he or she intends to make at the hearing. The notification should identify the party the person represents, and the particular subject(s) the person plans to address. The notification should also provide the Docket Clerk with the participant's mailing address. FRA reserves the right to limit participation in the hearings of persons who fail to provide such notification.

Issued in Washington, DC, on October 5, 1998.

George A. Gavalla,

Acting Associate Administrator for Safety.

[FR Doc. 98–27114 Filed 10–7–98; 8:45 am]

BILLING CODE 4910–06–P

Notices

Federal Register
Vol. 63, No. 195
Thursday, October 8, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Genesis Placer Claim, Suction Dredging Nez Perce National Forest, Idaho County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) to analyze and disclose the environmental effects of dredging on the Genesis placer claim on Red River. The claimant has proposed using one eight-inch suction dredge and one five-inch suction dredge to remove possible gold deposits from the gravel and at bedrock in Red River. The operation is proposed for five years, to be operated when water and weather conditions allow. The Genesis placer claim is located in Section 6, T28N, R9E, BPM.

DATES: Written comments and suggestions should be received on or before November 9, 1998 to receive timely consideration in the preparation of the draft EIS.

ADDRESSES: Send written comments and suggestions on the proposed action or requests for a map of the proposed action or to be placed on the project mailing list to Michael R. McGee, Acting District Ranger, Red River Ranger District, P.O. Box 416, Elk City, Idaho 83525.

FOR FURTHER INFORMATION CONTACT: Jo Ellis, District Geologist, Red River Ranger District, P.O. Box 416, Elk City, Idaho 83525, phone (208) 842–2245.

SUPPLEMENTARY INFORMATION: The proposed action is proposed pursuant to the 1872 Mining Law, the Organic Administration Act of 1897 and Forest Service mining regulations, Title 36 Code of Federal Regulation (CFR), Part 228, Subpart A. The United States mining laws at 30 U.S.C. 21–54 confer a statutory right to enter upon the public land to search for and remove certain minerals. The Forest Service has the responsibility to make sure that the activities are conducted so as to minimize adverse environmental impacts to National Forest System lands, 36 CFR, Part 228, Subpart A.

The proposal involves processing 5,517 cubic yards of river gravel over a 1,590 length of Red River. A 25-foot wide section of the river, approximately three feet deep, would be worked. This work would take place over five years or more whenever water and weather conditions allow operations. The process involves utilizing high pressure water pumps driven by gasoline-powered motors which create suction in a flexible intake pipe. A mixture of streambed sediment and water is vacuumed into the intake pipe and passed over a sluice box mounted on a floating barge. Dense particles (including gold) are trapped in the sluice box. The remainder of the entrained material is discharged into the stream as tailings or spoils. A hole is created in the gravel so bedrock is exposed. Cracks in the bedrock are then cleaned with the suction. Large boulders or rootwads are moved by cables attached to a winch.

The Forest Service will consider a range of alternatives to the proposed action. One of these will be the ''no action'' alternative, in which the Plan of Operations would not be approved. Additional alternatives will examine varying intensity and duration of the proposed activities, including restrictions on the size of equipment and length of seasonal operation, as well as respond to the issues and other resource values.

Public participation is an important part of the project, commencing with the initial scoping process (40 CFR 1501.7), which starts with publication of this notice and continues for the next 30 days. In addition, the public is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies, the Nez Perce Tribe, and other individuals or organizations who may be interested in or affected by the proposed action.

Comments from the public and other agencies will be used in preparation of the draft EIS. The scoping process will be used to:

1. Identify potential issues;
2. Identify major issues to be analyzed in depth;
3. Eliminate minor issues or those which have been covered by a relevant previous environmental analysis, such as the Nez Perce National Forest Plan EIS;
4. Identify alternatives to the proposed action;
5. Identify potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects.

While public participation in this analysis is welcome at any time, comments received within 30 days of this notice will be especially useful in the preparation of the draft EIS, which is expected to be filed with the Environmental Protection Agency and available for public review in January 1999. A 45-day comment period will follow publication of a Notice of Availability of the draft EIS in the **Federal Register.** The comments received will be analyzed and considered in preparation of a final EIS, which is expected to be filed in June 1999. A Record of Decision will be issued not less than 30 days after publication of a Notice of Availability of the final EIS in the **Federal Register**.

The Forest Service believes it is important at this early stage to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft EISs must structure their participation in the environmental review of the proposal in such a way that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC,* 435 U.S. 519, 513 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir, 1986), and *Wisconsin Heritages Inc.* v. *Harris,* 490 F.Supp. 1334, 1338 (E.D. Wis., 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period in order that substantive comments and objections are available to the Forest Service at a

time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Michael R. McGee is the responsible official for this environmental impact statement.

Dated: September 28, 1998.

Michael R. McGee,

Acting District Ranger, Red River Ranger District, Nez Perce National Forest, P.O. Box 416, Elk City, ID 83525.

[FR Doc. 98–27009 Filed 10–7–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to seek a regular three-year clearance from the Office of Management and Budget (OMB) of new reporting and recordkeeping requirements in support of the Guaranteed Rural Rental Housing Program Origination and Servicing Handbook. These requirements have been approved by emergency clearance by OMB under OMB control number 0575–0175.

DATES: Comments on this notice must be received by December 7, 1998 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Carl Wagner, Senior Loan Specialist, Multi-Family Housing Processing Division, Rural Housing Service, USDA, Room 1243, Stop 0781, 1400 Independence Avenue, SW., Washington, DC 20250, telephone, (202) 720–1627.

SUPPLEMENTARY INFORMATION:

Title: Guaranteed Rural Rental Housing Program Origination and Servicing Handbook.

OMB Number: 0575–0175.

Expiration Date of Approval: February 28, 1999.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: On March 28, 1996, President Clinton signed the ''Housing Opportunity Program Extension Act of 1996.'' One of the provisions of the Act was the authorization of the Section 538 Guaranteed Rural Rental Housing Loan Program, adding the program to the Housing Act of 1949. The program has been designed to increase the supply of affordable multifamily housing through partnerships between RHS and major lending sources, as well as State and local housing finance agencies and bond issuers. Qualified lenders will be authorized to originate, underwrite, and close loans for multifamily housing projects requiring new construction or acquisition with rehabilitation of at least $15,000 per unit will be considered.

The housing must be available for occupancy only by low or moderate income families or persons, whose incomes at the time of initial occupancy do not exceed 115 percent of the median income of the area. After initial occupancy, a tenant's income may exceed these limits; however, rents, including utilities, are restricted to no more than 30 percent of the 115 percent of area Median Income for the term of the loan.

Units must be located in rural areas considered eligible as defined in 7 CFR 3550.10 (not just the designated areas as defined in 7 CFR 1944.228).

The purpose of this Guaranteed Rural Rental Housing Program Origination and Servicing Handbook is to provide lenders and Agency personnel with the ''how-to'' administrative guidance needed to aid them in the implementation of 7 CFR part 3565, Guaranteed Rural Rental Housing Program (GRRHP). Throughout the Handbook, the user will find reference to the applicable corresponding action in 7 CFR part 3565. The references will be in italicized brackets and a copy of this regulation is provided in Appendix 1 of the Handbook. In accordance with the Paperwork Reduction Act of 1995, the reporting and recordkeeping requirements for 7 CFR part 3565 have been approved by emergency clearance by OMB under OMB control number 0575–0174.

Estimate of Burden: Public reporting burden for this collection of information is estimated to range from 5 minutes to 2 hours per response.

Respondents: Business or other for-profit entities and not-for-profit institutions.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 250.56.

Estimated Total Annual Burden on Respondents: 854.75.

A complete copy of the information collection package and Handbook can be obtained from Tracy Gillin, Regulations and Paperwork Management Branch, at (202) 692–0039.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent via the U.S. Postal Service to Tracy Gillin, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250–0742. Comments may also be sent via Federal Express to Tracy Gillin, Regulations and Paperwork Management Branch, USDA-Rural Development, 3rd Floor, 300 E. St., SW., Washington, DC 20546. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. A comment is best assured of having its full effect if the Agency receives it within 30 days of publication of this notice.

Dated: September 22, 1998.

Jan E. Shadburn,

Administrator, Rural Housing Service.

[FR Doc. 98–27020 Filed 10–7–98; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Census Advisory Committees

AGENCY: Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, as amended by Pub. L. 94–409, Pub. L. 96–523, and Pub. L. 97–375), we are giving notice of a joint meeting of the Commerce Secretary's 2000 Census Advisory Committee (CAC), the CAC of Professional Associations, the CAC on the African American Population, the CAC on the American Indian and Alaska Native Populations, the CAC on the Asian and Pacific Islander Populations, and the CAC on the Hispanic Population. The agenda will be limited to discussing how the Census Bureau can best use paid advertising to reach general and targeted populations and to encourage their participation in Census 2000.

DATES: On Monday, October 26, 1998, the meeting will begin at 8:30 a.m. and adjourn for the day at 5:30 p.m.

ADDRESSES: The meeting will take place at the Sheration Reston Hotel, 11810 Sunrise Valley Drive, Reston, VA.

FOR FURTHER INFORMATION CONTACT: Maxine Anderson-Brown, Committee Liaison Officer, Department of Commerce, Bureau of the Census, Room 1647, Federal Building 3, Washington, DC 20233, telephone: 301–457–2308.

SUPPLEMENTARY INFORMATION: The Commerce Secretary's 2000 Census Advisory Committee is composed of a Chair, Vice Chair, and up to 35 member organizations, all appointed by the Secretary of Commerce. The Committee considers the goals of Census 2000 and user needs for information provided by that census. The Committee provides an outside user perspective about how operational planning and implementation methods proposed for Census 2000 will realize those goals and satisfy those needs. The Committee considers all aspects of the conduct of the 2000 Census of Population and Housing and makes recommendations to the Secretary of Commerce for improving that census.

The CAC of Professional Associations is composed of 36 members appointed by the Presidents of the American Economic Association, the American Statistical Association, the Population Association of America, and the Chairman of the Board of the American Marketing Association. The Committee advises the Director, Bureau of the Census, on the full range of Census Bureau programs and activities in relation to its areas of expertise.

The CACs on the African American, American Indian and Alaska Native, and Hispanic Populations are composed of nine members each and the CAC on the Asian and Pacific Islander Populations is composed of thirteen members, appointed by the Secretary of Commerce. The Committees provide an organized and continuing channel of communication between the communities they represent and the Bureau of the Census on its efforts to reduce the differential in the count for Census 2000 and on ways that census data can be disseminated to maximum usefulness to their communities and other users.

A brief period will be set aside for public comment and questions. However, individuals with extensive questions or statements for the record must submit them in writing to the Commerce Department official named above at least three working days prior to the meeting.

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Census Bureau Committee Liaison Officer on 301–457–2308, TDD 301–457–2540.

Dated: October 2, 1998.

Robert J. Shapiro,

Under Secretary for Economic Affairs, Economics and Statistics Administration.

[FR Doc. 98–26982 Filed 10–7–98; 8:45 am]

BILLING CODE 3510–07–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–816]

Notice of Extension of Time Limit for Final Results of Antidumping Duty Administrative Review of Stainless Steel Butt-Weld Pipe Fittings From Taiwan.

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 8, 1998.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the 1996–97 administrative review for the antidumping order on stainless steel butt-weld pipe fittings from Taiwan, pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, ''the Act'').

FOR FURTHER INFORMATION CONTACT: Becky Hagen, AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 482–1102.

SUPPLEMENTARY INFORMATION: Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of the final results of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 120 days. In the instant case, the Department has determined that it is not practicable to complete the review within the statutory time limit. *See* Memorandum from Joseph A. Spetrini to Robert S. LaRussa, September 30, 1998 .

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the final results until December 2, 1998.

Dated: October 1, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement.

[FR Doc. 98–27051 Filed 10–7–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Procedures for Delivery of HEU Natural Uranium Component in the United States

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Request for comments.

SUMMARY: The Department of Commerce is providing interested parties an opportunity to comment on the Procedures for Delivery of HEU Natural Uranium Component in the United States (63 FR 36391, July 6, 1998). All Comments are due by close of business on October 30, 1998.

EFFECTIVE DATE: October 8, 1998.

FOR FURTHER INFORMATION CONTACT: James Doyle, Karla Whalen, or Letitia Kress, AD/CVD Enforcement Group III, Office VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, Room 7866, telephone: (202) 482–0159, (202) 482–1386 or (202) 482–6412, respectively.

Background

On April 25, 1996, Congress passed the United States Enrichment Corporation Privatization Act (The USEC Privatization Act), 42 U.S.C. 2297h *et seq.* The USEC Privatization Act required the U.S. Department of Commerce (the Department) to administer and enforce the limitations set forth in Section 42 U.S.C. 2297h-10(b)(5) of the USEC Privatization Act. On January 7, 1998, the Department

issued Procedures for Delivery of HEU Natural Uranium Component in the United States (The HEU Procedures).

On March 20, 1998, the Department issued Annex 1 to the HEU Procedures to clarify certain requirements detailed in the HEU Procedures. HEU Procedures and Annex 1 were also published in the **Federal Register** on July 8, 1998 (63FR36391).

On July 23, 1998, the Department issued a letter attaching Annex II for comment by the public. Annex II provides draft re-importation documentary requirements issued pursuant to Section D of the HEU Procedures.

Opportunity To Submit Comments

As outlined in Section F of the HEU Procedures, the Department is initiating a review of the operation of the HEU Procedures. Comments regarding necessary and/or desirable changes to the HEU Procedures are being solicited. If the Department determines that changes are warranted, amended procedures will be issued and effective January 1, 1999. Accordingly, parties may submit comments with respect to the operation of the HEU Procedures and subsequent Annexes not later than by close of business October 30, 1998. Seven copies of the comments should be submitted to the Deputy Assistant Secretary for AD/CVD Enforcement Group III, Import Administration, International Trade Administration, Room 7866, U.S. Department of Commerce, Washington, DC 20230, Attn: Roland MacDonald. The Department will meet with interested parties upon request to discuss the HEU Procedures and related comments.

Dated: October 1, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III, Import Administration.

[FR Doc. 98–27052 Filed 10–7–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Termination of Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Termination of Binational Panel Reviews Under the U.S.-Canada Free Trade Agreement.

SUMMARY: A Notice of Consent Motion to Terminate Panel Reviews was filed with the U.S. Section of the NAFTA Secretariat on September 23, 1998. Termination was requested of the final antidumping duty determinations made by the International Trade Administration, respecting Certain Cold-Rolled Carbon Steel Flat Products from Canada and Certain Hot-Rolled Carbon Steel Flat Products from Canada (Secretariat File Nos. USA–93–1904–01 and USA–93–1904–02, respectively). Pursuant to Rule 73(2) of the United States-Canada Free Trade Agreement Rules of Procedure for Article 1904 Binational Panel Reviews, these panel reviews were terminated as of September 23, 1998.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determination in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1989, the Government of the United States and the Government of Canada established Rules of Procedure for Article 1904 Binational Panel Reviews (''Rules''). These Rules were published in the **Federal Register** on December 30, 1988 (53 FR 53212). The Rules were amended by Amendments to the Rules of Procedure for Article 1904 Binational Panel Reviews, published in the **Federal Register** on December 27, 1989 (54 FR 53165). The Rules were further amended and a consolidated version of the amended Rules was published in the **Federal Register** on June 15, 1992 (57 FR 26698). The final amendments to the Rules were published in the **Federal Register** on February 8, 1994 (59 FR 5892). The panel reviews in these matters were conducted in accordance with these Rules.

A Notice of Consent Motion to Terminate Panel Reviews was filed with the U.S. Section of the NAFTA Secretariat on September 23, 1998. Termination was requested of the final antidumping duty determinations made by the International Trade Administration, respecting Certain Cold-Rolled Carbon Steel Flat Products from Canada and Certain Hot-Rolled Carbon Steel Flat Products from Canada (Secretariat File Nos. USA–93–1904–01 and USA–93–1904–03, respectively). These binational panel reviews were requested under the U.S.-Canada Free Trade Agreement and stayed in accordance with the provisions of the United States-Canada Free Trade Agreement Rules of Procedure for Article 1904 Binational Panel Reviews. All participants in these panel reviews have consented to the motion. Pursuant to Rule 73(2) of the United States-Canada Free Trade Agreement Rules of Procedure for Article 1904 Binational Panel Reviews, these panel reviews are terminated as of September 23, 1998.

Dated: September 28, 1998.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 98–27011 Filed 10–7–98; 8:45 am]

BILLING CODE 3510–GT–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[DOC PS 20–94]

American Lumber Standard Committee; Notice of Meeting on Proposed Revision of Softwood Lumber Standard

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The American Lumber Standard Committee (ALSC), the Standing Committee for Voluntary Product Standard PS 20–94 ''American Softwood Lumber Standard'' of the Department of Commerce (DOC), will meet on Friday, November 6, 1998, to discuss and vote upon a draft revision of the standard.

DATES: The one-day meeting will convene at 9:00 A.M. on November 6, 1998.

ADDRESSES: The site of the meeting is the Westin La Paloma, 300 Sunrise Drive, Tucson, AZ 85718 (telephone: 520–577–5873). Inquiries should be sent to Barbara M. Meigs, Room 164, Building 820, National Institute of Standards and Technology, Gaithersburg, MD 20899–0001.

FOR FURTHER INFORMATION CONTACT:

Barbara M. Meigs, telephone: 301–975–4025; fax: 301–926–1559, e-mail: *barbara.meigs@nist.gov*.

SUPPLEMENTARY INFORMATION: The Department sponsors DOC PS 20–94 under procedures established in Part 10 of Title 15 of the Code of Federal Regulations and administered by NIST. The ALSC is the Standing Committee for PS 20–94 and is responsible for maintaining the standard. The Committee will meet on November 6, 1998, to discuss and vote upon a draft revision of DOC PS 20–94. The draft was developed by an ALSC Task Group after it had considered comments received from Committee members and other interested parties who responded to NIST's announcement of March 30, 1998, in the *NIST Update*. In the NIST announcement, NIST indicated that as part of the Department's 5-year review, mandated by the DOC procedures, it was seeking comments on the standard to determine its technical adequacy, the level of acceptability the standard's compatibility with existing law and established public policy, and the benefits that would be derived from PS 20–94 versus any alternatives. Based upon the recommendation of the ALSC, NIST will reaffirm, revise, or withdraw the standard, as appropriate.

Authority: 15 U.S.C. 272.

Dated: October 2, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98–26995 Filed 10–7–98; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 093098C]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Ad Hoc Marine Reserves Scientific and Statistical Committee (MRSSC).

DATES: The meeting of the MRSSC will begin at 10:00 a.m. on Wednesday, October 21, 1998 and conclude by 12:00 noon on Thursday, October 22.

ADDRESSES: The meeting will be held at the Tampa Airport Hilton Hotel, 2225 Lois Avenue, Tampa, Fl 33607; telephone: 813–877–6688.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, Fl 33619.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The MRSSC will convene to prepare a scoping document on the possible use of marine reserves in the Gulf of Mexico. The purpose of the MRSSC is to work with Council staff in developing the scoping document in order to help managers and the public become better informed about marine reserves and their application. The target audience for this document is the Council, resource user groups, and others interested in the marine environment and its resources. Once the scoping document is completed, the Council will conduct a series of public scoping workshops.

The MRSSC is composed of biologists, economists, sociologists, a lawyer, and an enforcement officer who are knowledgeable about marine reserves and their potential for use in the Gulf of Mexico.

Although other issues not on the agenda may come before the committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. The committee actions will be restricted to those issues specifically identified in the agenda listed as available by this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by October 14, 1998.

Dated: October 2, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–27055 Filed 10–7–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 093098D]

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Socioeconomic Panel (SEP).

DATES: A meeting of the SEP will be held beginning at 8:30 a.m. on Thursday, October 22, and will conclude by 4:00 p.m. on Friday October 23, 1998.

ADDRESSES: The meeting will be held at the Tampa Airport Hilton Hotel, 2225 Lois Avenue, Tampa, FL 33607; telephone: 813–877–6688.

FOR FURTHER INFORMATION CONTACT: Antonio B. Lamberte, Economist, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The SEP members will meet to review available social and economic data on red snapper, and to determine the social and economic implications of the levels of acceptable biological catches (ABC) recommended by the Council's Reef Fish Stock Assessment Panel (RFSAP). The SEP may recommend to the Council a total allowable catch (TAC) for the 1999 fishing year. The SEP will also discuss issues raised by the Sustainable Fisheries Act. Although other issues not contained in this agenda may come before the Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Panel action during this meeting. Panel action will be restricted to those issues specifically identified in the agenda listed in this notice.

A copy of the agenda can be obtained by contacting the Gulf Council (see **ADDRESSES**).

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by October 15, 1998.

Dated: October 2, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–27058 Filed 10–7–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092898B]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for scientific research permits (1108, 1109, 1110, 1117, 1121, 1154, 1163, 1164, 1165, 1170, 1172), enhancement permits (1077, 1078, 1084, 1171), scientific research and enhancement permit (1090); receipt of requests to modify scientific research permits (1041, 1045, 1046, 1055, 1059, 1066, 1075, 1080, 1097, 1103, 1105).

SUMMARY: Notice is hereby given that the following entities have applied for permits authorizing the take of endangered or threatened species:

For scientific research: the Monterey Bay Water Management District (MBWMD) in Monterey, CA (1108), California Department of Fish and Game (CDFG) in San Diego, CA (1109), National Marine Fisheries Service, Southwest Region (SWR), Long Beach, CA (1110), Carmel River Steelhead Association (CRSA), Carmel, CA (1117), Santa Clara Valley Water District (SCVWD), San Jose, CA (1121), National Marine Fisheries Service, Northwest Fisheries Science Center (NWFSC), Seattle, WA (1154), East Bay Municipal Utilities District (EBMUD), Lodi, CA (1163), U.S. Fish and Wildlife Service (FWS), Ventura, CA (1164), U.S. Forest Service (USFS), Goleta, CA (1165), U.S. Geological Survey (USGS), Sacramento, CA (1170), and Environmental Science Associates (EnSci), San Francisco, CA.

For enhancement: the Salmon Restoration Association (SRA), Fort Bragg, CA (1077, 1084), the Rowdy Creek Hatchery (RCH), Crescent City, CA (1078), and Annette Thompson, Oakland, CA (1171).

For research/enhancement: the Mattole Watershed Salmon Support Group (MSG) in Petrolia, CA (1090).

Notice is also given that the following entities have applied for modifications to their existing permits: California Department of Transportation, District 4 (CalTrans), Oakland, CA (1041), Michael Fawcett, Bodega Bay, CA (1045), U.S. National Park Service (NPS), San Francisco, CA (1046), Amy Harris, Sacramento, CA (1055), Carl Page, Cotati, CA (1059), D.W. Alley and Associates (DWAA), Brookdale, CA (1066), Pacific Coast Federation of Fishermen's Associations (PCFFA), Miranda, CA (1075), Jerry Smith, San Jose, CA (1080), Scott Cressey, El Cerrito, CA (1097), California Department of Forestry and Fire Protection (CDFFP), Santa Rosa, CA (1103), and Hagar Environmental Science (HES), Richmond, CA.

DATES: Written comments or requests for a public hearing on any of these applications must be received on or before November 9, 1998.

ADDRESSES: The applications and related documents are available for review in the following office, by appointment:

Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707–575–6066).

All documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401);

FOR FURTHER INFORMATION CONTACT: Tom Hablett, Protected Species Division, NMFS, Santa Rosa Office (707–575–6066).

SUPPLEMENTARY INFORMATION:

Authority

The permit applicants identified in the preceding **SUMMARY** section of this Notice request permits and/or modifications to permits under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

Those individuals requesting a hearing on any of these applications should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit application summaries are those of the applicants and do not necessarily reflect the views of NMFS.

Species and Activities Covered Under This Notice

This notice covers the following species: central California coast (CCC) and southern Oregon/northern California coast (SONCC) coho salmon (*Oncorhynchus kisutch*), southern California coast (SoCC), south-central California coast (SCCC), central California coast (CCC), and Central Valley (CV) steelhead trout (*Oncorhynchus mykiss*), and Sacramento River winter-run (SaRWR) chinook salmon (*Oncorhynchus tshawytscha*).

The scientific studies listed below consist of adult and/or juvenile distribution/abundance surveys, genetic studies, and spawner surveys. ESA-listed fish are proposed to be captured, anesthetized, handled (identified, measured, and sampled for tissues), allowed to recover from the anesthetic, and released. ESA-listed fish carcasses are proposed to be collected, measured and sampled for tissues, and returned to the water. ESA-listed adult and/or juvenile fish indirect mortalities associated with the research are also requested. Enhancement activities include obtaining adult coho salmon broodstock for propagation purposes, and releasing artificially-reared juveniles coho salmon into area watersheds. All initial permit requests are for a five-year duration.

Permits Requested

MBWMD (1108) requests takes of adult and juvenile, threatened, steelhead associated with fish population, migration, and spawning studies, and the rescue of stranded fish in the Carmel River within the SCCC steelhead Evolutionarily Significant Unit (ESU).

CDFG (1109) requests takes of adult and juvenile, endangered, steelhead associated with presence/absence studies in the San Luis Rey River, the Santa Margarita River and San Mateo Creek within the SoCC steelhead ESU.

SWR (1110) requests takes of adult and juvenile, endangered, steelhead associated with presence/absence studies throughout the SoCC steelhead ESU.

CRSA (1117) requests takes of adult and juvenile, threatened, steelhead associated with the rescue of stranded fish in the Carmel River within the SCCC steelhead ESU.

SCVWD (1121) requests takes of adult and juvenile, threatened, steelhead associated with fish population, migration, and spawning studies, and the rescue of stranded fish in the Santa Clara County jurisdictional waters within the CCC and SCCC steelhead ESUs.

NWFSC (1154) requests takes of juvenile, threatened, coho salmon, adult and juvenile, threatened steelhead, and adult and juvenile, endangered, chinook salmon associated with the National

Wild Fish Health Survey in two estuarine studies on the Klamath River and San Francisco Bay, within the CCC and SONCC coho salmon, CCC and CV steelhead, and SaRWR chinook salmon ESUs. The study consists of the capture and intentional killing of targeted ESA-listed juveniles for a tissues analysis of bacterial and parasitic pathogens in the species. Direct mortalities of 200 SONCC juvenile coho salmon and 200 SaRWR juvenile chinook salmon annually are requested.

EBMUD (1163) requests takes of adult and juvenile, threatened, steelhead associated with fish population, migration, and spawning studies in the Mokelumne River within the CV steelhead ESU.

FWS (1164) requests takes of adult and juvenile, endangered, steelhead associated with fish population, migration, and spawning studies throughout the SoCC steelhead ESU.

USFS (1165) requests takes of adult and juvenile, endangered and threatened, steelhead associated with fish population, migration, and spawning studies in USFS jurisdictional waters within the SoCC and SCCC steelhead ESUs.

USGS (1170) requests takes of adult and juvenile, threatened, steelhead, and adult and juvenile, endangered chinook salmon associated with fish population, migration, and spawning studies in the Sacramento River drainage within the CV steelhead and SaRWR chinook salmon ESUs.

EnSci (1172) requests takes of adult and juvenile, threatened, steelhead associated with fish population studies in the Squaw Creek watershed within the CCC steelhead ESU.

SRA (1077,1084) requests takes of adult and juvenile coho salmon for enhancement purposes at their Ten-mile River and Hollow Tree Creek hatcheries within the CCC coho salmon ESU.

RCH (1078) requests takes of adult and juvenile coho salmon for enhancement purposes at their Rowdy Creek hatchery within the California portion of the SONCC coho salmon ESU.

Annette Thompson (1171) requests minor takes of threatened steelhead eggs (n=1000) from areas that are unsuitable for successful reproduction, hatch/rear the fish in public school classrooms, and release the juveniles to their parent streams within the CCC steelhead ESU.

MSG (1090) requests takes of adult and juvenile, threatened, coho salmon associated with fish population, migration, and spawning studies, and for enhancement purposes in the Mattole River drainages within the CCC coho salmon ESU.

Modifications Requested

CalTrans requests modification 1 to permit 1041 for authorization to include takes of adult and juvenile, threatened, steelhead associated with fish population and habitat studies throughout the CCC and SCCC steelhead ESUs for the duration of the permit which expires on June 30, 2002.

Michael Fawcett requests modification 1 to permit 1045 for authorization to include takes of adult and juvenile, threatened, steelhead associated with fish population and habitat studies throughout the CCC steelhead ESU for the duration of the permit which expires on June 30, 2002.

NPS requests modification 1 to permit 1046 for authorization to include takes of adult and juvenile, threatened, steelhead associated with fish population and habitat studies in jurisdictional waters within the CCC steelhead ESU for the duration of the permit which expires on June 30, 2002.

Amy Harris requests modification 1 to permit 1055 for authorization to include takes of adult and juvenile, threatened, steelhead associated with fish population and habitat studies in the Sacramento-San Joaquin watershed within the CV steelhead ESU for the duration of the permit which expires on June 30, 1999.

Carl Page requests modification 1 to permit 1059 for authorization to include takes of adult and juvenile, threatened, steelhead associated with fish population and habitat studies throughout the CCC and SCCC steelhead ESUs for the duration of the permit which expires on June 30, 2003.

DWAA requests modification 1 to permit 1066 for authorization to include takes of adult and juvenile, endangered and threatened, steelhead associated with fish population and habitat studies throughout the SoCC, CCC and SCCC steelhead ESUs for the duration of the permit which expires on June 30, 2002.

PCFFA requests modification 1 to permit 1075 for authorization to include takes of adult and juvenile, threatened coho salmon for enhancement purposes in Redwood Creek within the California portion of the SONCC coho salmon ESU for the duration of the permit which expires on June 30, 2003.

Jerry Smith requests modification 1 to permit 1080 for authorization to include takes of adult and juvenile, threatened, steelhead associated with fish population and habitat studies throughout the CCC and SCCC steelhead ESUs for the duration of the permit which expires on June 30, 2002.

Scott Cressey requests modification 1 to permit 1097 for authorization to include takes of adult and juvenile, threatened, steelhead associated with fish population and habitat studies throughout the CCC and SCCC steelhead ESUs for the duration of the permit which expires on June 30, 2003.

CDFFP requests modification 2 to permit 1103 for authorization to include takes of adult and juvenile, threatened, steelhead associated with fish population and habitat studies throughout the CCC steelhead ESU for the duration of the permit which expires on June 30, 2002.

HES requests modification 1 to permit 1105 for authorization to include takes of adult and juvenile, threatened, steelhead associated with fish population and habitat studies throughout the CCC and SCCC steelhead ESUs for the duration of the permit which expires on June 30, 2003.

Dated: October 1, 1998.

Kevin Collins,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–27056 Filed 10–7–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091698A]

Marine Mammals; Permit No. 960 (File No. 77–3#54)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that the Southeast Fisheries Science Center, National Marine Fisheries Service, NOAA, 75 Virginia Beach Drive, Miami, FL 33149 has been issued an amendment to scientific research permit No. 960 (File No. 77–3#54).

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, MA 01930–2298 (978/281–9250); and

Regional Administrator, Southeast Region, National Marine Fisheries

Service, NOAA, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432 (813/570–5301).

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On August 6, 1998, notice was published in the **Federal Register** (63 FR 42010) that an amendment of Permit No. 960, issued June 13, 1995 (60 FR 31214), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 960 authorizes the Southeast Fisheries Science Center, National Marine Fisheries Service, to capture, sample, mark and release up to 100 Atlantic bottlenose dolphins (*Tursiops truncatus*) annually in the near-shore and inshore waters from Virginia to Texas.

This amendment now authorizes the Holder to: (1) extend the geographic range of research activities to include the entire summer range of the depleted coastal migratory stock of bottlenose dolphins by including the coasts of Maryland, Delaware, and New Jersey; (2) use satellite telemetry and different attachment packages for VHF transmitters and increase the number of animals that may be radio and satellite tagged annually from 20 to 60; and (3) include hoop netting as an alternative capture method.

Dated: September 22, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–27057 Filed 10–7–98; 8:45 am]

BILLING CODE 3510–22–F

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 15 October 1998 at 10:00 AM in the Commission's offices at the National Building Museum (Pension Building), Suite 312, Judiciary Square, 441 F Street, NW, Washington, DC 20001. The meeting will focus on a variety of projects affecting the appearance of the city.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, DC 1 October 1998.

Charles H. Atherton,

Secretary.

[FR Doc. 98–27013 Filed 10–7–98; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Czech Republic

October 1, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in the Czech Republic and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1999 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 1, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in the following categories, produced or manufactured in the Czech Republic and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following limits:

Category	Twelve-month restraint limit
410	1,616,155 square meters.
433	6,347 dozen.
435	4,176 dozen.
443	77,376 numbers.
624	2,313,574 square meters.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated November 19, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–26962 Filed 10–7–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Arab Republic of Egypt

October 1, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Egypt and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1999 limits. The limit for Categories 338/339 is being reduced for carryforward applied to the 1998 limit.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 1, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Egypt and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Fabric Group 218–220, 224–227, 313–O [1], 314–O [2], 315–O [3], 317–O [4] and 326–O [5], as a group.	118,879,067 square meters.
Sublevels within Fabric Group	
218	2,508,000 square meters.
219	27,969,591 square meters.
220	27,969,591 square meters.
224	27,969,591 square meters.
225	27,969,591 square meters.
226	27,969,591 square meters.
227	27,969,591 square meters.
313–O	51,360,184 square meters.
314–O	27,969,591 square meters.
315–O	32,844,943 square meters.
317–O	27,969,591 square meters.
326–O	2,508,000 square meters.
Levels not in a group	
300/301	11,035,893 kilograms of which not more than 3,461,244 kilograms shall be in Category 301.
338/339	2,958,034 dozen.
340/640	1,296,497 dozen.
369–S [6]	1,641,768 kilograms.
448	19,453 dozen.

[1] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.
[2] Category 314–O: all HTS numbers except 5209.51.6015.
[3] Category 315–O: all HTS numbers except 5208.52.4055.
[4] Category 317–O: all HTS numbers except 5208.59.2085.
[5] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.
[6] Category 369–S: only HTS number 6307.10.2005.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated December 22, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–26961 Filed 10–7–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

October 1, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 8, 1998.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the

Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 351/651 is being increased for swing, reducing the limit for Categories 340/640 to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67624, published on December 29, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 1, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on October 8, 1998, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
340/640	1,473,221 dozen.
351/651	340,375 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

The guaranteed access levels for the foregoing categories remain unchanged.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–26960 Filed 10–7–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Poland

October 1, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Poland and exported during the period January 1, 1999 through December 31, 1999 are based on the limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limits for the 1999 period.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 1, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Poland and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
335	217,674 dozen.
338/339	2,344,183 dozen.
410	2,731,797 square meters.
433	19,292 dozen.
434	10,522 dozen.
435	13,769 dozen.
443	229,471 numbers.
611	6,700,179 square meters.
645/646	343,256 dozen.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated November 24, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–26963 Filed 10–7–98; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Lethal Mosquito Breeding Container

AGENCY: U.S. Army Medical Research and Materiel Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of U.S. Patent Application Serial No. 08/965,518 entitled ''Lethal Mosquito Breeding Container'', and filed November 6, 1997, for licensing. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Staff Judge Advocate, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Harris, Patent Attorney, (301) 619–2065 or telefax (301) 619–7714.

SUPPLEMENTARY INFORMATION: The invention relates to a breeding container which is lethal to certain species of mosquitoes that seek the container for breeding purposes. It especially relates to an environmental sound, simple, cost effective method of controlling populations of Aedes species of mosquitoes, primarily Aedes aegypti and Aedes Albopictus, two extremely important species in the transmission of tropical diseases.

Mary V. Yonts,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 98–27012 Filed 10–7–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

National Board of the Fund for the Improvement of Postsecondary Education; Meeting

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: October 22, 1998 from 8:30 a.m. to 2:30 p.m.

ADDRESSES: Grand Hyatt Hotel, 1000 H Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Charles Karelis, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3100, ROB #3, Washington, D.C. 20202–5175. Telephone: (202) 708–5750. Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern time, Monday through Friday).

Individuals with disabilities may obtain this document in an alternate format (e.g., Barille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under Section 1001 of the Higher Education Amendments of 1980, Title X (20 U.S.C. 1131a–1). The National Board of Fund is authorized to recommend to the Director of the Fund and the Assistant Secretary for Postsecondary Education priorities for funding and approval or disapproval of grants of a given kind.

The meeting of the National Board is open to the public. The National Board will meet on Thursday, October 22, from 8:30 a.m. to 2:30 p.m. to provide an overview of the Fund's program status and special initiatives and orient new Board members.

The meeting site is accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device or materials in an alternate format) should notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although the Department will attempt to meet a request received after the date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Records are kept of all Board proceedings, and are available for public inspection at the office of the Fund for the Improvement of Postsecondary Education, Room 3100, Regional Office Building #3, 7th & D Streets, S.W., Washington, D.C. 20202 from the hours of 8:00 a.m. to 4:30 p.m.

Dated: October 2, 1998.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 98–27031 Filed 10–7–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–801–000]

ANR Pipeline Company; Notice of Request Under Blanket Authorization

October 2, 1998.

Take notice that on September 25, 1998, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP98–801–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate an interconnection between ANR and LSP Energy Limited Partnership (LSP) in Panola County, Mississippi under ANR's blanket certificate issued in Docket No. CP82–480–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

The proposed interconnection will be located at ANR's Sardis Compressor Station in Panola County, Mississippi. The proposed interconnection will allow deliveries of natural gas to LSP's proposed power plant in Batesville, Mississippi. ANR's proposed interconnection will consist of a tee welded to its existing 30-inch Sardis Compressor Station discharge piping, an insulating flange, associated valves and controls, approximately 40 feet of 30-inch piping, and an electronic measurement system. The total cost of the facilities will be approximately $237,000, which will be fully reimbursed by LSP.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a

protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26933 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–802–000]

ANR Pipeline Company; Notice of Petition to Amend

October 2, 1998.

Take notice that on September 25, 1998, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP98–802–000, a petition to amend the certificate of public convenience and necessity issued on July 7, 1977 in Docket No. CP74–316–000,[1] pursuant to Section 7(c) of the Natural Gas Act and Part 157 of the Federal Energy Regulatory Commission's (Commission) Regulations authorizing ANR to revise the storage field boundary for its Capac Storage Field (Capac Field), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR seeks to expand the storage boundary of the Capac Field located in St. Clair and Lapeer Counties, Michigan. Specifically, ANR proposes to increase the Storage boundary area by approximately 2,360 acres from the current 14,440 acres. ANR says it is seeking to expand the storage boundary of Capac Field because the storage reservoir has gradually expanded due to operation of the storage field over the years since it was originally certificated.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before October 23, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or person to whom the protests are directed. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for ANR to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26934 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

[1] Michigan Wisconsin Pipe Line Company, 59 FPC 533 (1977).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–429–000]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1998.

Take notice that on September 30, 1998, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of November 1, 1998:

Fortieth Revised Sheet No. 32
Fortieth Revised Sheet No. 33

CNG states that the purpose of this filing is to submit CNG's quarterly revision of the Section 18.2.B. Surcharge, effective for the three-month period commencing November 1, 1998. The charge for the quarter ending October 31, 1998 has been $0.0026 per Dt, as authorized by Commission order dated July 20, 1998 in Docket No. RP98–278. CNG's proposed Section 18.2.B. surcharge for the next quarterly period is $0.0122 per Dt. The revised surcharge is designed to recover $104,384 in Stranded Account No. 858 Costs, which CNG incurred for the period of June, 1998 through August, 1998.

CNG states that copies of this letter of transmittal and enclosures are being mailed to CNG's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26950 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–426–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1998.

Take notice that on September 30, 1998, Columbia Gas Transmission Corporation (Columbia) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets set forth on Appendix A to the filing, with a proposed effective date of November 2, 1998.

Columbia states that these sheets were filed pursuant to the Commission's Order issued July 15, 1998 in Docket No. RM96–1–008 (Order No. 587–H), Standards for Business Practices of Interstate Natural Gas Pipelines, adopting standards governing intra-day nominations. The new standards are 1.1.17 through 1.1.19, 1.2.8 through 1.2.12, 1.3.39 through 1.3.44. Modifications were made to existing standards. Standards 1.3.2, 1.3.20, 1.3.22, and 1.3.32 were revised. Standards 1.2.7, 1.3.10, and 1.3.12 were deleted.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood, A. Watson Jr.,

Acting Secretary.

[FR Doc. 98–26947 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–427–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1998.

Take notice that on September 30, 1998, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, revised tariff sheets set forth on Appendix A to the filing, with a proposed effective date of November 2, 1998.

Columbia Gulf states that these sheets were filed pursuant to the Commission's Order issued July 15, 1998 in Docket No. RM96–1–008 (Order No. 587–H) Standards for Business Practices of Interstate Natural Gas Pipelines, Columbia Gulf tenders for filing the tariff sheets, as set forth on Appendix A, adopting standards governing intra-day nominations. The new standards are 1.1.17 through 1.1.19, 1.2.8. through 1.2.12, 1.3.39 through 1.3.44. Modifications were made to existing standards. Standards 1.3.2, 1.3.20, 1.3.22, and 1.3.32 were revised. Standards 1.2.7, 1.3.10, and 1.3.12 were deleted.

Columbia Gulf states that copies of its filing have been mailed to affected customers and state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26948 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–95–000]

Distrigas of Massachusetts Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1998.

Take notice that on September 30, 1998, Distrigas of Massachusetts Corporation (DOMAC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, to become effective December 1, 1998:

Fifth Revised Sheet No. 94.

DOMAC states that the purpose of this filing is to record semiannual changes in DOMAC's index of customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–26935 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–805–000]

Florida Gas Transmission Company; Koch Gateway Pipeline Company; Notice of Application

October 2, 1998.

Take notice that on September 28, 1998, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas, 77002, and Koch Gateway Pipeline Company (Koch), P.O. Box 1478, Houston, Texas, 77251–1478 (jointly referred to as Applicants) filed in Docket No. CP98–805–000 an abbreviated joint application pursuant to Section 7(b) of the Natural Gas Act, as amended, and Section 157.18 of the Federal Energy Regulatory Commission's (Commission) regulations thereunder, for permission and approval to authorize applicant to abandon five natural gas exchange agreements by and between Applicants, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that the five gas exchange services under agreements by and between Applicants dated November 9, 1972, May 29, 1974, January 27, 1976, December 14, 1976, and June 24, 1977 have not been used for some time and are no longer needed. It is indicated that the Commission authorized these agreements in Docket Nos. CP73–272, CP75–30, CP76–315, CP77–230, and CP77–524, respectively. Applicants further state that they have mutually agreed to terminate the five exchange effective the date that the Commission grants abandonment authorization. Applicants asserts that no service will be terminated or disrupted as a result of the proposal herein, nor will it disadvantage Applicants' existing customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act 18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, and if the Commission on its own review of the matter finds that the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such meeting will be duly given.

Under the procedure herein provide for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26958 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–421–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1998.

Take notice that on September 30, 1998, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets proposed to become effective November 2, 1998:

Fifth Revised Sheet No. 57A
Second Revised Sheet No. 59A
First Revised Sheet No. 59B
Sixth Revised Sheet No. 60
First Revised Sheet No. 60A
Second Revised Sheet No. 60B
Original Sheet No. 60C
Original Sheet No. 60D
Fifth Revised Sheet No. 120

Iroquois states that these sheets were submitted in compliance with the provisions of Order No. 587–H, issued on July 15, 1998. Iroquois states that the tariff sheets included herewith reflect the adoption of the portions of the GISB standards and the Commission's implementing regulations relating to intra-day nominations.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26942 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–1–110–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1998.

Take notice that on September 30, 1998, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing to become part its FERC Gas Tariff, First Revised Volume No. 1, Twenty-first Revised Sheet No. 4 and Sixth Revised Sheet No. 48, with an effective date of November 1, 1998.

Iroquois states that pursuant to Part 154 of the Commission's regulations and Section 12.3 of the General Terms and Conditions of its tariff, it is filing Twenty-First Revised Sheet No. 4 and supporting workpapers as part of its annual update of its Deferred Asset Surcharge to reflect the annual revenue requirement associated with its Deferred Asset for the amortization period commencing November 1, 1998. Iroquois states that the revised tariff sheet reflects a decrease of $.0001 per Dth in Iroquois effective Deferred Asset Surcharge for Zone 1 of $.0001 per Dth in Iroquois effective Deferred Asset Surcharge for Zone 2 of $.0001 per Dth

(from $.0007 to $.0006 per Dth) and a decrease in the Inter-Zone surcharge of $.0002 per Dth (from $.0016 to $.0014 per Dth). Iroquois further states that Sixth Revised Sheet No. 48 updates the applicable zonal allocation factors underlying its current rates.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of these filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26953 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–2–110–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1998.

Take notice that on September 30, 1998, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing to become part its FERC Gas Tariff, First Revised Volume No. 1, Twenty-second Revised Sheet No. 4, with an effective date of November 1, 1998.

Iroquois states that pursuant to Part 154 of the Commission's regulations and Section 12.5 of the General Terms and Conditions of its tariff, it is filing Twenty-second Revised Sheet No. 4 and supporting workpaper as part of its first annual Transportation Cost Rate Adjustment filing to reflect changes in Account No. 858 costs for the twelve month period commencing November 1, 1998. According to Iroquois, the revised tariff sheet reflects reduced rates which will be charged by Tennessee Gas Pipeline Company commencing November 1, 1998.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26954 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–797–000]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Application

October 2, 1998.

Take notice that on September 23, 1998, Maritimes & Northeast Pipeline, L.L.C. (Maritimes), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed an application pursuant to Section 7(c) of the Natural Gas Act for authorization to construct, install, own, operate and maintain facilities near Veazie, Maine (the Veazie Lateral). These facilities are necessary to connect Maritimes' system to a new 520 megawatt nominal capacity electric generation facility (the Maine Independence Station) to be constructed by Casco Bay Energy Company, L.L.C. (Casco Bay) in Veazie, all as more fully set forth in the application on file with the Commission and open to public inspection.

The Veazie lateral will generally consist of a 1.1-mile, 12-inch diameter lateral pipeline commencing at Mile Post (MP) 223.6 of Maritimes' 24-inch diameter mainline and terminating at Casco Bay's plant site and a measurement facility in Veazie. Firm lateral transportation service of up to 105,000 Dekatherms per day (Dth/d) on the Veazie Lateral will be provided to Casco Bay pursuant to proposed open-access incremental firm Rate Schedule MNLFT. The proposed initial monthly reservation charge is $0.8501 Dth/d.

If the Commission rejects Maritimes' proposed Rate Schedule MNLFT, Maritimes requests approval under Section 154.112(b) of a service agreement provision that may constitute a material deviation from Maritimes' Rate Schedule MN365 form of service. Maritimes notes that Article III of the service agreement under Rate Schedule MN365 provides that, because Casco Bay is paying for capacity only on the Veazie Lateral, Casco Bay's rights under Maritimes' tariff including capacity rights, capacity release rights, and flexible point rights relate only to Casco Bay's capacity on the Veazie Lateral.

The estimated cost for the 1.1-mile pipeline is $4,003,300 and the meter station is $1,589,600, totaling $5,592,900. The proposed pipeline lateral will cross the Penobscot River.

Maritimes states that it has been informed that Casco Bay received all necessary permits and that Casco Bay commenced construction of the Maine Independence Station on September 8, 1998, to be able to provide service to its market by May 1, 2000.

Maritimes requests that the Commission issue a Preliminary Determination in this proceeding by no later than March 1, 1999, and a final certificate by June 1, 1999, to assure that Casco Bay and Maritimes can construct and place their respective facilities in service by January 1, 2000, with commercial operations on June 1, 2000.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211 and the Regulations under the Natural Gas Act (18 CFR 157.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be necessary for Maritimes to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26956 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–724–000]

Maritimes & Northeast Pipeline, L.L.C.; Supplemental Notice of Application

October 2, 1998.

Take notice that the processing procedure for the above referenced proceeding has been changed. As originally filed on August 13, 1998, and supplemented on August 20, 1998, Maritimes & Northeast Pipeline, L.L.C. (Maritimes), filed its request in this proceeding pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205 and 157.211(b)) (blanket certificate—prior notice).[1] On October 1, 1998, Maritimes filed a letter with the Commission which requested that the Commission process its filing in this proceeding pursuant to Sections 157.7 of the Commission's Regulations (18 CFR 157.7) (abbreviated Section 7(c) certificate application).

This change is processing procedure is required because Maritimes has added a request to this proceeding which is not appropriate under the blanket certificate—prior notice procedure. Maritimes now requests approval, under Section 154.112(b) of the Commission's Regulations, of a service agreement provision that may constitute a material deviation from Maritimes's Rate Schedule MN365 form of service agreement. In this proceeding, Article III of the service agreement for Gorham Energy Limited Partnership (Gorham Energy) provides that, because Gorham Energy is only paying for capacity on the Gorham Delivery Point Lateral, Gorham Energy's rights under Maritimes' tariff including capacity rights, capacity release rights, and flexible point rights relate only to Gorham Energy's capacity on the Gorham Delivery Point Lateral. The Commission can consider such a request if the processing of this proceeding is under the abbreviated Section 7(c) certificate application process.

No other changes in Maritimes proposal has been made and the due date for any person to file a motion to intervene or notice of intervention and/or protest pursuant to Rules 214 and/or 211 of the Commission's Procedural Rules (18 CFR 385.214 and 385.211) remains October 13, 1998, the due date originally proscribed under the blanket certificate—prior notice procedure.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26957 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

[1] See Notice of Request under Blanket Certificate, issued by Commission on August 27, 1998, and published in the **Federal Register** on September 2, 1998, at 63 FR 46781.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–423–000]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1998.

Take notice that on September 3, 1998, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed below to be effective November 1, 1998.

Thirty First Revised Sheet No. 5
Thirty First Revised Sheet No. 6
Twenty Eighth Revised Sheet No. 7

MRT states that the purpose of this filing is to remove MRT's Gas Supply Realignment Costs (GSRC) surcharges included in MRT's Firm Transportation rates and in that portion that MRT collects GSRC in its volumetric rates, pursuant to Section 16.3 of the General Terms and Conditions of MRT's FERC Gas Tariff. MRT further states that the removal of these charges does not foreclose MRT from making future GSRC recovery filings, as reflected in its General Terms and Conditions of its Tariff.

MRT states that a copy of this filing is being mailed to each of MRT's customers and to the state commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26944 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–1–16–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

October 2, 1998.

Take notice that on September 30, 1998, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheet to become, effective October 1, 1998.

Twelfth Revised Sheet No. 9

National asserts that the purpose of this filing is to comply with the Commission's order issued February 16, 1996, in Docket Nos. RP94–367–000, et al. Under Article I, Section 4, of the settlement approved in that order, National must redetermine quarterly the Amortization Surcharge to reflect revisions in the Plant to be Amortized, interest and associated taxes, and a change in the determinants. The recalculation produced an Amortization Surcharge of 10.92 cents per dth.

National Fuel states that copies of its filing have been served upon all

customers on the service list and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commissions Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26951 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–1–31–000]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1998.

Take notice that on September 30, 1998, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective November 1, 1998:

Thirteenth Revised Sheet No. 5
Thirteenth Revised Sheet No. 6

NGT states that the purpose of this filing is to adjust NGTs fuel percentages pursuant to Section 21 of its General Terms and Conditions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26952 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–419–000]

OkTex Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1998.

Take notice that on September 29, 1998, OkTex Pipeline Company (OkTex) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on the Appendix to the filing, with an effective date of November 2, 1998.

OkTex states that the filing of the tariff sheets are in compliance with the Commission's directives in Order No., 587–H.

OkTex states that the tariff sheets reflect the changes to OkTex's tariff that resulted from the Gas Industry Standards Board's (GISB) consensus standards that were adopted by the Commission in its July 15, 1998 Order No. 587–H in Docket No. RM96–1–008. OkTex further stats that Order No. 587–H contemplates that OkTex will implement the GISB consensus standards for November 1998 business, and that the tariff sheets therefore reflect an effective date of November 2, 1998.

OkTex states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26940 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–804–000]

Paiute Pipeline Company; Notice of Application

October 2, 1998.

Take notice that on September 28, 1998, Paiute Pipeline Company (Paiute), P.O. Box 94197, Las Vegas, Nevada 89193–4197, filed an application pursuant to sections 7(b) and 7(C) of the Natural Gas Act (NGA) and part 157 of the Commission's Regulations thereunder for an order granting a certificate of public convenience and necessity and permission and approval to abandon facilities, so as to enable Paiute to relocate a segment of its existing North Tahoe Lateral Pipeline Facilities in Washoe County, Nevada, all as more fully set forth in the application on file with the Commission and open to public inspection.

Paiute proposes to construct and operate approximately 3,225 feet of new 8-inch replacement pipeline on its North Tahoe Lateral and to abandon in place approximately 2,925 feet of existing 8-inch pipeline in the same vicinity. Paiute states that the existing 8-inch pipeline was constructed in 1966, and that a portion of the segment to be abandoned lies within a stream zone. Paiute proposes to relocate the existing 8-inch pipeline segment into the same alignment and right-of-way utilized by a new 16-inch loop pipeline that Paiute installed in a nearby right-of-way, outside of the stream zone, in 1997.

Paiute states that the proposed relocation project will enable Paiute to avoid encroachment on its existing 8-inch pipeline that will occur as a result of the proposed residential development of the surrounding property. Paiute further states that by consolidating its two pipelines in the area into a common right-of-way, the relocation project will enable Paiute to conduct more efficient pipeline maintenance activities in the area, will permit other uses of the original pipeline right-of-way property, and will provide long-term environmental and cost benefits in that Paiute will be able to avoid conducting future maintenance activities in the stream zone.

Paiute states that the total cost of the proposed construction activities is estimated to be $88,300. Paiute estimates that the cost to abandon in place the existing segment is $5,000. According to Paiute, the proposed relocation project will not create any additional capacity on the North Tahoe Lateral, nor will it cause any reduction or termination of the natural gas service rendered to any of Paiute's customers.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before October 23, 1998, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to take but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by comenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if not motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Paiute to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26955 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP98–198–001 and RP85–177–127]

Texas Eastern Transmission Corporation; Notice of Compliance Filing

October 2, 1998.

Take notice that on September 30, 1998, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheet to become effective October 1, 1998:

Second Revised Sheet No. 637

Texas Eastern asserts that the purpose of this filing is to comply with the Joint Stipulation and Agreement Amending Global Settlement (Settlement) filed on April 28, 1998, and approved by the Commission's letter order issued August 28, 1998, in Docket Nos. RP98–198–000 and RP85–177–126.

Texas Eastern states that the filing revises Section 15.7 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff to make explicit reference to the Settlement.

Texas Eastern states that copies of the filing were mailed to all parties on the service list in this proceeding and all other affected customers of Texas Eastern and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26939 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–422–000]

Texas Eastern Transmission Corporation; Notice of Tariff Filing

October 2, 1998.

Take notice that on September 30, 1998, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheet, to become effective November 1, 1998:

Fourth Revised Sheet No. 223

Texas Eastern asserts that the purpose of this filing is to clarify that the existing tariff language in Rate Schedule SCT excluding Contract Adjustment Program volumes from the volumetric limitation calculation is applicable only to those quantities already certificated in Docket No. CP88–180. Texas Eastern states that Rate Schedule SCT customers with MDQs in excess of 5,987 Dths attributable to Contract Adjustment Program quantities will continue to receive those quantities under Rate Schedule SCT.

Texas Eastern states that copies of the filing were served on all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26943 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–425–000]

Texas Gas Transmission Corporation; Notice of Filing of Tariff Sheets

October 2, 1998.

Take notice that on September 30, 1998, Texas Gas Transmission Corporation (Texas Gas) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of November 1, 1998:

Fifth Revised Sheet No. 205
First Revised Sheet No. 206
First Revised Sheet No. 206A
First Revised Sheet No. 206B
Second Revised Sheet No. 206C
Second Revised Sheet No. 206D
Ninth Revised Sheet No. 207

Texas Gas states that the instant filing is being made in accordance with Order No. 587–H issued by the Commission on July 15, 1998. The revised tariff sheets to be effective November 1, 1998, implement standards relating to intra-day nominations promulgated March 12, 1998, by the Gas Industry Standards Board (GISB), adopted by Order No. 587–H and establishing intra-day nominations.

Texas Gas states that copies of the tariff sheets are being served upon Texas Gas's jurisdictional customers and interested state commissions, and all parties on the official service list in Docket No. RP97–183.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson Jr.,

Acting Secretary.

[FR Doc. 98–26946 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–428–000]

Tuscarora Gas Transmission Company; Notice of Tariff Filing

October 2, 1998.

Take notice that on September 30, 1998, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective November 2, 1998.

Third Revised Sheet No. 37
Third Revised Sheet No. 37A
Second Revised Sheet No. 37B
Third Revised Sheet No. 42
First Revised Sheet No. 42A
First Revised Sheet No. 42B
Original Sheet No. 42C
Original Sheet No. 42D

Tuscarora asserts that the purpose of this filing is to comply with Order No. 587–H, issued on July 15, 1998, in Docket No. RM96–1–008. Specifically, Tuscarora has revised Section 4 of the General Terms and Conditions of its tariff to include timelines for an evening and two intra-day nomination cycles.

Tuscarora states that copies of this filing were mailed to customers of Tuscarora and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26949 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–424–000]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1998.

Take notice that on September 30, 1998, Williams Gas Pipelines Central, Inc. (Williams), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with the proposed effective date of November 2, 1998:

First Revised Sheet Nos. 212 and 230
Original Sheet Nos. 230A and 230B
First Revised Sheet No. 231
Second Revised Sheet Nos. 232 and 297

Williams states that on July 15, 1998, the Commission issued Order No. 587–H (Order). The Order incorporated by reference, in Section 284.10(b)(1)(i), the standards related to intra-day nominations promulgated by the Gas Industry Standards Board (GISB). The Commission also established November 2, 1998, as the implementation date for intra-day nomination regulations adopted in Order No. 587–G. Williams further states that the purpose of this filing is to revise the tariff in compliance with the Order.

Williams states that a copy of its filing was served on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's

Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26945 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT98–15–000]

Williston Basin Interstate Company; Notice of Proposed Change in FERC Gas Tariff

October 2, 1998.

Take notice that on September 29, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Eighth Revised Sheet No. 187, with an effective date of September 29, 1998.

Williston Basin states that it is filing the proposed revision to its Tariff to reflect changes in Subsection 7.1 relating to the corporate structure of its marketing affiliates. These changes are being made to simplify the statement of corporate relationship and have no impact on the status of the companies and/or divisions listed as marketing affiliates.

Williston Basin has requested that the Commission accept this filing to become effective September 19, 1998.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26936 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–76–002]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

October 2, 1998.

Take notice that on September 30, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective October 1, 1998:

Fifth Revised Sheet No. 3
Fourth Revised Sheet No. 234
Fourth Revised Sheet No. 235
Second Revised Sheet No. 235A
Sheet Nos. 732–735
Second Revised Sheet No. 736
Second Revised Sheet No. 737
Second Revised Sheet No. 738
Second Revised Sheet No. 739
Second Revised Sheet No. 740
Original Sheet No. 740A
Second Revised Sheet No. 741
Second Revised Sheet No. 742
Second Revised Sheet No. 743
Sheet Nos. 744–744

Williston Basin states that it is submitting these revised tariff sheets in compliance with the September 23, 1998 Order issued by the Commission in Docket No. RP98–76–001. Williston Basin further states that the tariff sheets incorporate the tiered cash-out mechanism approved in Docket No. RP98–3–003.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 285.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26938 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–420–000]

Williston Basin Interstate Pipeline Company; Notice of Annual Report

October 2, 1998.

Take notice that on September 30, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, Fifth Revised Sheet No. 358A, pursuant to Section 39 of that Tariff.

Williston Basin requests waiver of the filing requirements so that the effective date of the above-referenced tariff sheet may be September 30, 1998.

Williston Basin states that as of July 31, 1998 it has a zero balance in FERC Account No. 191. As a result, Williston Basin will neither refund nor bill its customers for any amounts under the conditions of Section No. 39.3.1 of its FERC Gas Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before October 9, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26941 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–5–000, et al.]

Bear Swamp II LLC, et al.; Electric Rate and Corporate Regulation Filings

October 2, 1998.

Take notice that the following filings have been made with the Commission:

1. Bear Swamp II LLC

[Docket No. EG99–5–000]

Take notice that on October 1, 1998, Bear Swamp II LLC (Applicant) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Applicant is the beneficial owner of Bear Swamp Generating Trust No. 2, a Delaware business trust created to purchase an undivided interest in the Bear Swamp Facility, an approximately 597 megawatt (MW) fully automated pumped storage electric power generating facility on the Deerfield River in the towns of Rowe and Florida, Massachusetts.

Comment date: October 23, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. New England Power Company

[Docket No. ER98–4409–000]

Take notice that on September 29, 1998, New England Power Company (NEP), filed an amendment to its August 31, 1998, filing in this docket.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. TransAlta Energy Marketing (U.S.) Inc.

[Docket No. ER98–4651–000]

Take notice that on September 29, 1998, TransAlta Energy Marketing (U.S.) Inc. (TEMUS), filed an amendment to its filing in the above-captioned docket.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Company of New Mexico

[Docket No. ER98–4677–000]

Take notice that on September 29, 1998, Public Service Company of New Mexico (PNM), tendered for filing a mutual netting/close-out agreement between PNM and Enserch Energy Services, Inc. (Enserch).

PNM requested waiver of the Commission's notice requirement so that service under the PNM/Enserch netting agreement may be effective as of September 25, 1998.

Copies of the filing were served on Enserch and the New Mexico Public Utility Commission.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Company of New Mexico

[Docket No. ER98–4678–000]

Take notice that on September 29, 1998, Public Service Company of New Mexico (PNM), tendered for filing a mutual netting/close-out agreement between PNM and Illinova Energy Partners (Illinova).

PNM requested waiver of the Commission's notice requirement so that service under the PNM/Illinova netting agreement may be effective as of September 28, 1998.

Copies of the filing were served on Illinova and the New Mexico Public Utility Commission.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Company of New Mexico

[Docket No. ER98–4679–000]

Take notice that on September 29, 1998, Public Service Company of New Mexico (PNM), tendered for filing a mutual netting/close-out agreement between PNM and Tractebel Energy Marketing, Inc., (Tractebel).

PNM requested waiver of the Commission's notice requirement so that service under the PNM/Tractebel netting agreement may be effective as of September 25, 1998.

Copies of the filing were served on Tractebel and the New Mexico Public Utility Commission.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–4680–000]

Take notice that on September 29, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule, Con Edison Rate Schedule FERC No. 123, a facilities agreement with Central Hudson Gas and Electric Corporation (CH). The Supplement provides for a decrease in the monthly carrying charges.

Con Edison has requested that this decrease take effect as of July 1, 1998.

Con Edison states that a copy of this filing has been served by mail upon CH.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. American Electric Power Service Corporation

[Docket No. ER98–4681–000]

Take notice that on September 29, 1998, the American Electric Power Service Corporation (AEPSC), tendered for filing service agreements under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff) with Central Illinois Public Service Company and TransAlta Energy Marketing (U.S.) Inc. The Power Sales Tariff was accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5.

AEPSC respectfully requests waiver of notice to permit the service agreements to be made effective for service as specified in the submittal letter to the Commission with this filing.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Illinois Power Company

[Docket No. ER98–4682–000]

Take notice that on September 29, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Unexecuted Service Agreement under which Vitol Gas & Electric, LLC, will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of September 1, 1998.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Company

[Docket No. ER98–4683–000]

Take notice that on September 28, 1998, New England Power Company (NEP), tendered for filing service agreements (and related Network Operating Agreements) for Network Integration Transmission Service under NEP's Open Access Transmission Tariff, FERC Electric Tariff, Original Volume No. 9 (Tariff No. 9) between NEP and: (i) USGen New England, Inc.; (ii) PG&E

Energy Services, and (iii) Boston Edison Company.

NEP seeks effective date of September 1, 1998, the date service commenced, for the service agreements. NEP respectfully requests waiver of the Commission's 60-day advance notice requirements.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Washington Water Power Company

[Docket No. ER98–4684–000]

Take notice that on September 29, 1998, Washington Water Power, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR Section 35.13, an unexecuted Service Agreement under WWP's FERC Electric Tariff First Revised Volume No. 9, with Illinova Energy Partners.

WWP requests waiver of the prior notice requirements and that the unexecuted Service be accepted for filing effective August 29, 1998.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. ACN Power, Inc.

[Docket No. ER98–4685–000]

Take notice that on September 29, 1998, ACN Power, Inc. (ACN Power), petitioned the Commission for acceptance of ACN Power Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

ACN Power intends to engage in wholesale electric power and energy purchases and sales as a marketer. ACN Power is not in the business of generating or transmitting electric power. ACN Power is a wholly-owned subsidiary of ACN Utility Services, Inc. ACN Utility Services, Inc., is a wholly owned subsidiary of American Communications Network, Inc., which is primarily engaged in the marketing of long distance telephone, paging and internet services.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Northern Indiana Public Service Company

[Docket No. ER98–4686–000]

Take notice that on September 29, 1998, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and PG&E Energy Trading—Power, L.P., (PGET).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to PGET pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission.

Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of September 30, 1998.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Tampa Electric Company

[Docket No. ER98–4687–000]

Take notice that on September 29, 1998, Tampa Electric Company (Tampa Electric), tendered for filing a letter agreement with the Reedy Creek Improvement District (RCID) that provides for termination of an existing letter of commitment between them, and a notice of termination of the letter of commitment.

Tampa Electric proposes that the letter agreement be made effective on September 30, 1998, and the termination of the letter of commitment be made effective on October 1, 1998, and therefore requests waiver of the Commission's notice requirements.

Copies of the letter agreement and the notice of termination have been served on RCID and the Florida Public Service Commission.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Northern Indiana Public Service Company

[Docket No. ER98–4688–000]

Take notice that on September 29, 1998, Northern Indiana Public Service Company tendered for filing an executed Sales Service Agreement and an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and OGE Energy Resources, Inc., (OERI).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to OERI pursuant to the Open-Access Transmission Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Under the Sales Service Agreement, Northern Indiana Public Service Company will provide general purpose energy and negotiated capacity to OERI pursuant to the Wholesale Sales Tariff field by Northern Indiana Public Service Company in Docket No. ER95–1222–000 as amended by the Commission's order in Docket No. ER97–458–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreements be allowed to become effective as of September 30, 1998.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. PJM Interconnection, LLC

[Docket No. ER98–4689–000]

Take notice that on September 29, 1998, PJM Interconnection, LLC (PJM), tendered for filing one executed service agreement with Old Dominion Electric Cooperative for network integration transmission service under the PJM Open Access Transmission Tariff. PJM requests a waiver of 18 CFR 35.3 to permit an effective date of September 1, 1998, for the Service Agreement.

Copies of this filing were served upon Old Dominion Electric Cooperative and the pertinent state electric utility regulatory commissions.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. New England Power Company

[Docket No. ER98–4699–000]

Take notice that on September 29, 1998, New England Power Company (NEP), tendered for filing an Amendment to its FERC Rate Schedule No. 489, NEP's Nuclear Wholesale Agreement with USGen New England, Inc.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Tampa Electric Company

[Docket No. ER98–4700–000]

Take notice that on September 29, 1998, Tampa Electric Company (Tampa Electric), tendered for filing an amendment to its contract for the sale and purchase of capacity and energy with the Reedy Creek Improvement

District (RCID). Tampa Electric proposes that the amendment be made effective on November 28, 1998.

Copies of the filing have been served on RCID and the Florida Public Service Commission.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Allegheny Power Service Corporation, on behalf of Monongahela Power Co., The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. OA97–117–007]

Take notice that on September 29, 1998, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company and their Utility and Nonutility Affiliates (Allegheny Power) tendered for filing a revision to their Standards of Conduct. This filing is intended to comply with the Commission's order issued on July 31, 1998, in Docket No. OA97–117–001.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–27001 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–899–000, et al.]

California Independent System Operator Corporation, et al.; Electric Rate and Corporate Regulation Filings

September 30, 1998.

Take notice that the following filings have been made with the Commission:

1. California Independent System Operator Corporation

[Docket Nos. ER98–899–000 and ER98–1923–001]

Take notice that on September 25, 1998, the California Independent System Operator Corporation (ISO), tendered for filing the revised and executed Uniform Distribution Company Operating Agreement between the City of Anaheim and the ISO for acceptance by the Commission. The ISO states that this filing revises the Uniform Distribution Company Operating Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in *Pacific Gas and Electric Co.*, 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced dockets.

Comment date: October 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Clinton Energy Management Services, Inc.

[Docket No. ER98–4653–000]

Take notice that on September 25, 1998, Clinton Energy Management Services, Inc., submitted a filing, in compliance with the Commission's Order of September 4, 1998, in Docket No. ER98–3934–000.

Comment date: October 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. California Independent System Operator Corporation

[Docket No. ER98–4654–000]

Take notice that on September 25, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for Scheduling Coordinators between the ISO and the City of Anaheim (Anaheim) for acceptance by the Commission.

The ISO states that this filing has been served on Anaheim and the California Public Utilities Commission.

Comment date: October 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. New York State Electric & Gas Corporation

[Docket No. ER98–4655–000]

Take notice that on September 25, 1998, that New York State Electric & Gas Corporation (NYSEG), tendered for filing a supplement and amendment to its Agreement with Consolidated Edison Company of New York, Inc. (Con Edison), designated Rate Schedule FERC No. 87. The supplement is made pursuant to the rate update provisions of the rate schedule.

NYSEG requests an effective date of September 1, 1998, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Consolidated Edison Company of New York and on the Public Service Commission of the State of New York.

Comment date: October 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Company (Minnesota Company), Northern States Power Company (Wisconsin Company)

[Docket No. ER98–4656–000]

Take notice that on September 25, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)(collectively known as NSP), tendered for filing an Electric Service Agreement between NSP and Rainbow Energy Marketing Corporation (Customer). This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services Tariff original Volume No. 4.

NSP requests that this Electric Service Agreement be made effective on August 31, 1998.

Comment date: October 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Northern States Power Company (Minnesota Company), Northern States Power Company (Wisconsin Company)

[Docket No. ER98–4657–000]

Take notice that on September 25, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing a Short-Term Market-Based Electric Service Agreement between NSP and Rainbow Energy Marketing Corporation (Customer).

NSP requests that this Short-Term Market-Based Electric Service

Agreement be made effective on August 31, 1998.

Comment date: October 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Northern States Power Company (Minnesota Company)

[Docket No. ER98–4658–000]

Take notice that on September 25, 1998, Northern States Power Company (Minnesota) (NSP), tendered for filing a Notice of Termination of the Relocation Agreement between NSP and the City of Delano (City).

NSP requests the Agreement be accepted for filing effective September 28, 1998, and requests waiver of the Commission's notice requirements in order for the termination notice to be accepted for filing on the date requested.

Comment date: October 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Electric Power Company

[Docket No. ER98–4659–000]

Take notice that on September 25, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing unexecuted electric service agreements under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) and its Coordination Sales Tariff (FERC Electric Tariff, Original Volume No. 2) with Detroit Energy Trading, Inc., (DET).

Wisconsin Electric respectfully requests an effective date of August 29, 1998, to allow for economic transactions.

Copies of the filing have been served on DET, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: October 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Power and Light Company

[Docket No. ER98–4660–000]

Take notice that on September 25, 1998, Wisconsin Power and Light Company (WP&L), tendered for filing a signed Service Agreement under WP&L's Bulk Power Tariff between itself and Virginia Electric and Power Company.

WP&L respectfully requests a waiver of the Commission's notice requirements, and an effective date of August 24, 1998.

Comment date: October 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Arizona Public Service Company

[Docket No. ER98–4661–000]

Take notice that on September 25, 1998, Arizona Public Service Company(APS), tendered for filing Umbrella Service Agreements to provide Firm and Non-Firm Point-to-Point Transmission Service to TransAlta Energy Marketing (U.S.) Inc. (TransAlta), under APS' Open Access Transmission Tariff.

A copy of this filing has been served on TransAlta and the Arizona Corporation Commission.

Comment date: October 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–27003 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL98–78–000, et al.]

Public Service Company of New Mexico, et al.; Electric Rate and Corporate Regulation Filings

October 1, 1998

Take notice that the following filings have been made with the Commission:

1. Public Service Company of New Mexico

[Docket No. EL98–78–000]

Take notice that on September 25, 1998, Public Service Company of New Mexico (PNM) submitted for filing a Petition for Declaratory Order and Expedited Action. The petition requests that the Federal Energy Regulatory Commission declare that it has exclusive jurisdiction over certain issues addressed by the New Mexico Public Utility Commission (NMPUC) in Case No. 2812. In particular, PNM requests that the Federal Energy Regulatory Commission find that: (1) the authority to order wholesale wheeling, including the type ordered by the NMPUC, is subject to the Commission's exclusive jurisdiction; (2) the authority to order interconnection, including the type ordered by the NMPUC, is subject to the Commission's exclusive jurisdiction; (3) the NMPUC order is procedurally and substantively inconsistent with federal law and requirements; (4) if the contract for wholesale electric services between PNM and the City of Gallup at issue in the NMPUC proceedings is subject to concurrent (rather than exclusive) Commission jurisdiction and interpretation with respect to the issues raised, the Commission should exercise its authority on the facts presented; and (5) the contract between PNM and the City of Gallup at issue in the NMPUC proceedings does not require PNM to deliver power to PNM's Yah-Ta-Hey substation. PNM requests an expedited decision on its petition.

Comment date: November 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Central Power and Light Company

[Docket No. ER95–1141–001]

Take notice that on September 28, 1998, Central Power and Light Company (CPL), submitted for filing selected revised pages of a Transmission Service Agreement (TSA), between CPL and Rio Grande Electric Cooperative, Inc. (Rio Grande), filed July 1, 1996 in this docket in compliance with the Commission's ''Order Accepting in Part and Rejecting in Part Transmission Agreement and Declining to Rule on Termination Fee Issue'' (Order), issued May 30, 1996. CPL and Rio Grande have settled a number of issues in dispute between them at the Commission and in the Texas courts. As part of the settlement, CPL and Rio Grande agreed to withdraw all pending pleadings and requests for rehearing and CPL agreed to make a revised compliance filing in this docket.

Copies of this filing were served upon Rio Grande and the Public Utility Commission of Texas.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Advantage Energy, Inc., Strategic Energy Ltd., Tri-Valley Corporation, and Stand Energy Corporation

[Docket Nos. ER97–2758–003, ER96–3107–006, ER97–3428–004, and ER95–362–014]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On September 25, 1998, Advantage Energy, Inc. filed certain information as required by the Commission's July 14, 1997 order in Docket No. ER97–2758–000.

On September 28, 1998, Strategic Energy Ltd. filed certain information as required by the Commission's November 13, 1996 order in Docket No. ER96–3107–000.

On September 28, 1998, Tri-Valley Corporation filed certain information as required by the Commission's August 6, 1997 order in Docket No. ER97–3428–000.

On September 30, 1998, Stand Energy Corporation filed certain information as required by the Commission's February 24, 1995 order in Docket No. ER95–362–012.

4. California Independent System Power Corporation

[Docket Nos. ER98–3760–001]

Take notice that on September 28, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a compliance filing in the above-referenced docket which includes a revision to the ISO Tariff. The ISO states that this filing was submitted to comply with the Commission's September 11, 1998, Order in this docket, 84 FERC ¶ 61,217 (1998).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Niagara Mohawk Power Corporation

[Docket No. ER98–4195–000]

Take notice that on September 28, 1998, Niagara Mohawk Power Corporation (NMPC) tendered for filing with the Federal Energy Regulatory Commission an amended Transmission Service Agreement between NMPC and Allegheny Electric Cooperative, Inc. (Allegheny). This Transmission Service Agreement specifies that Allegheny has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000.

NMPC has served copies of the filing upon the New York State Public Service Commission, the New York Power Authority and Allegheny.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Niagara Mohawk Power Corporation

[Docket No. ER98–4269–000]

Take notice that on September 28, 1998, Niagara Mohawk Power Corporation (NMPC) tendered for filing with the Federal Energy Regulatory Commission an amended Transmission Service Agreement between NMPC and American Municipal Power—Ohio, Inc. (Amp-Ohio). This Transmission Service Agreement specifies that Amp-Ohio has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000.

NMPC has served copies of the filing upon the New York State Public Service Commission, the New York Power Authority and Amp-Ohio.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Kansas City Power & Light Company

[Docket No. ER98–4303–000]

Take notice that on September 28, 1998, Kansas City Power & Light Company (KCPL), tendered for filing ten revised Specifications for Firm Point-to-Point Transmission Service which identify the POD and POR for the transactions.

In its filing, KCPL stated that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888–A in Docket No. OA97–636–000.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Northeast Utilities Service Company

[Docket No. ER98–4535–000]

Take notice that on September 28, 1998, Northeast Utilities Service Company (NUSCO), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement between NUSCO and Griffin Energy Marketing, L.L.C. On September 11, 1998, Northeast Utilities (NUSCO), filed with FERC two Service Agreements between NUSCO and Griffin Energy Marketing, L.L.C., for Non-Firm Point-To-Point Transmission Service and Firm Point-To-Point Transmission Service under the NU System Companies' Open Access Transmission Tariff No. 9.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Public Service Company of New Mexico

[Docket No. ER98–4662–000]

Take notice that on September 28, Public Service Company of New Mexico, tendered for filing executed service agreements for point-to-point transmission service under its Open Access transmission Service Tariff, with American Electric Power Service Corporation (2 agreements, dated September 23, 1998, for Non-firm and Firm Service).

PNM requests an effective date of the date of execution for the service agreements.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Pacific Gas and Electric Company

[Docket No. ER98–4663–000]

Take notice that on September 28, 1998, Pacific Gas and Electric Company (PG&E), tendered for filing a revised Appendix A to the System Bulk Power and Purchase Agreement between PG&E and the City of Santa Clara, California (City or Santa Clara). The revised Appendix A changes the energy rates under PG&E's Rate Schedule FERC No. 108, for the firm system power sale by PG&E to the City.

Copies of this filing were served upon City and the California Public Utilities Commission.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Boralex Stratton Energy, Inc.

[Docket No. ER98–4652–000]

Take notice that on September 28, 1998, Boralex Stratton Energy, Inc. (Boralex Stratton), petitioned the Commission for acceptance of Boralex Stratton Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Boralex Stratton intends to engage in the wholesale sale of electric power from a 47 MW small power production facility, fueled by biomass, which it is acquiring in the United States. Boralex Stratton is a wholly-owned subsidiary of Boralex Industries Inc., which is a wholly-owned subsidiary of Boralex Inc., a Canadian corporation which has registered as a Foreign Utility Company with the Securities & Exchange Commission. Boralex Inc., owns in whole or in part eight hydroelectric

facilities and one gas-fired cogeneration facilities located in Canada, with an aggregate generation capacity of 61.4 MW. None of the electricity generated by Boralex Inc., is sold in or transmitted to the United States.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Niagara Mohawk Power Company

[Docket No. ER98–4664–000]

Take notice that on September 28, 1998, Niagara Mohawk Power Company (NMPC), tendered for filing with the Federal Energy Regulatory Commission an amended Transmission Service Agreement between NMPC and the Power Authority of the State of New York (NYPA), to permit NYPA to deliver power and energy from NYPA's FitzPatrick Plant, Bid Process Suppliers and Substitute Suppliers to the points where NMPC's transmission system connects to its retail distribution system East of NMPC's constrained Central-East Interface. This Transmission Service Agreement specifies that NYPA has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000.

NMPC requests an effective date of September 1, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon New York Public Service Commission and NYPA.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Niagara Mohawk Power Corporation

[Docket No. ER98–4665–000]

Take notice that on September 28, 1998, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed, amended Transmission Service Agreement between NMPC and the Power Authority of the State of New York (NYPA) to permit NYPA to deliver power and energy from NYPA's FitzPatrick Plant, Bid Process Suppliers and Substitute Suppliers to the points where NMPC's transmission system connects to its retail distribution system west of NMPC's constrained Central-West Interface. This Transmission Service Agreement specifies that NYPA has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000.

NMPC requests an effective date of September 1, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon New York Public Service Commission and NYPA.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Cleco Corporation

[Docket No. ER98–4666–000]

Take notice that on September 28, 1998, Cleco Corporation, (Cleco), tendered for filing a service agreement under which Cleco will make market based power sales under its MR–1, tariff with Illinois Power Company.

Cleco requests that the Commission accept the Service Agreement with an effective date of July 29, 1998 and waive the prior notice requirement consistent with the Commission's practice with service agreements to existing tariffs.

Cleco states that a copy of the filing has been served on Illinois Power Company.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Central Hudson Gas & Electric Corporation

[Docket No. ER98–4667–000]

Take notice that on September 28, 1998, Central Hudson Gas & Electric Corporation (CHG&E) tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's Regulations in 18 CFR, a Service Agreement for Non-Firm Point-to-Point Transmission Service between CHG&E and Duke/Louis Dreyfus, L.L.C. The terms and conditions of service under this Agreement are made pursuant to CHG&E'S FERC Open Access Schedule, Original Volume 1 (Transmission Tariff) filed in compliance with the Commission's Order 888 in Docket No. RM95–8–000 and RM94–7–001 and amended in compliance with Commission Order dated May 28, 1997.

CHG&E requests an effective date of September 9, 1998.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Central Hudson Gas and Electric Corporation

[Docket No. ER98–4668–000]

Take notice that on September 28, 1998, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's Regulations in 18 CFR a Service Agreement between CHG&E and Statoil Energy Services, Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER97–890–000.

CHG&E has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11 and requests an effective date of August 28, 1998.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Electric Power Company

[Docket No. ER98–4669–000]

Take notice that on September 28, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a Consent to Assignment between itself and Duke Energy Trading and Marketing, L.L.C., (DETM). The agreement establishes DETM as a customer, in lieu of Duke/Louis Dreyfus L.L.C., under Wisconsin Energy Corporation Operating Companies' transmission service tariff (FERC Electric Tariff, Original Volume No. 1).

Wisconsin Electric respectfully requests waiver of the Commission's notice requirements to permit an effective date of October 1, 1998, coincident with the assignment itself. Wisconsin Electric is authorized to state that DETM joins in the requested effective date.

Copies of the filing have been served on DETM, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Kentucky Utilities Company

[Docket No. ER98–4670–000]

Take notice that on September 22, 1998, Kentucky Utilities Company (KU), tendered for filing an executed Power Services Agreement between KU and Florida Power & Light under KU's Power Services Tariff, Rate PS.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Louisville Gas and Electric Company; Kentucky Utilities Company

[Docket No. ER98–4671–000]

Take notice that on September 28, 1998, Louisville Gas and Electric Company/Kentucky Utilities (LG&E/

KU), tendered for filing an executed Service Agreement for Firm Point-To-Point Transmission Service between LG&E/KU and Constellation Power Source, Inc., under LG&E/KU's Open Access Transmission Tariff.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Nevada Power Company

[Docket No. ER98–4672–000]

Take notice that on September 28, 1998, Nevada Power Company (Nevada Power), tendered for filing, an amendment to its Electric Service Coordination Tariff. The amendment is being made to make the unbundled rates for transmission service consistent with the rates filed by Nevada Power in Docket No. OA96–188–003 (Open Access Transmission Tariff compliance filing).

Nevada Power requests an effective date of November 23, 1998.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Southwest Power Pool Inc.

[Docket No. ER98–4675–000]

Take notice that on September 28, 1998, Southwest Power Pool (SPP), tendered for filing two executed service agreements with PanCanadian Energy Services Inc., for short-term firm point-to-point transmission service and non-firm point-to-point firm transmission service under the SPP Open Access Transmission Tariff.

SPP requests waiver of Section 35.3 of the Commission's Regulations, 18 CFR 35.3, to allow these agreements to become effective as of September 1, 1998.

Copies of this filing were served upon each of the parties to these agreements.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Montaup Electric Company

[Docket No. ER98–4676–000]

Take notice that on September 28, 1998, Montaup Electric Company (Montaup), filed an interconnection agreement between itself and Tiverton Power Associates Limited Partnership (TPA).

Montaup requests the Commission to waive the notice requirement in order to allow the agreement to become effective as of the filing date.

Comment date: October 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–27002 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–153–004]

Southern Natural Gas Company; Notice of Availability of the Final Supplement to the Final Environmental Impact Statement for the Proposed Amended North Alabama Pipeline Project

October 2, 1998.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this Final Supplement to the Final Environmental Impact Statement (Supplement) for the North Alabama Pipeline Project. It addresses the environmental impact of the amended natural gas pipeline project proposed by Southern Natural Gas Company (Southern) in the above referenced docket.

The staff prepared the Supplement to satisfy the requirements of the National Environmental Policy Act. The staff concludes that the Amended North Alabama Pipeline Project would result in limited adverse environmental impact if it is constructed as planned and with additional mitigation recommended in this Supplement. This document supplements the *North Alabama Pipeline Project Final Environmental Impact Statement* (FEIS) that was noticed in the **Federal Register** by the U.S. Environmental Protection Agency on May 30, 1997. The Supplement only examines the route changes north of milepost 95.25 (about milepost 91.2 of the route previously studied in the FEIS). There are no changes in the facilities south of milepost 95.25.

The Supplement assesses the potential environmental effects of the construction and operation of the following facilities proposed by Southern:

- about 27.1 miles of interstate natural gas pipeline (26.9 miles of 16-inch-diameter pipeline and 0.2 mile of 12-inch-diameter pipeline); and
- two new meter stations, and related facilities.

Facilities required by two local distribution companies to receive natural gas from Southern are also examined.

The purpose of Southern's proposed facilities would be to transport a total of 69 million cubic feet per day of natural gas to one existing and two new customers in northern Alabama.

The Supplement has been placed in the public files of the FERC and is available for public inspection at:

Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, (202) 208–1371.

A limited number of copies are available at this location.

Copies of the Supplement have been mailed to Federal, state, and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

In accordance with the Council on Environmental Quality (CEQ) regulations implementing the National Environmental Policy Act, no agency decision on a proposed action may be made until 30 days after the U.S. Environmental Protection Agency (EPA) publishes a notice of availability of the Supplement. However, the CEQ regulations provide an exception to this rule when an agency decision is subject to a formal internal appeal process which allows other agencies or the public to make their views known. In such cases, the agency decision may be made at the same time that the notice of availability is issued by EPA, allowing both appeal periods to run concurrently. Should the FERC issue Southern a certificate for the proposed action, it would be subject to a 30-day rehearing period. Therefore, the FERC could issue its decision concurrently with the EPA's notice of availability.

Additional information about the proposed project is available from Paul

McKee in the Commission's Office of External Affairs, at (202) 208–1088.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26932 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission

October 2, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* P–2721–013.

c. *Date Filed:* September 28, 1998.

d. *Applicant:* Bangor Hydro-Electric Company.

e. *Name of Project:* Howland Hydro Project.

f. *Location:* On the Piscataquis River in Penobscot County, near Howland, Maine.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Robert S. Briggs, Bangor Hydro-Electric Company, 33 State Street, Bangor, ME 04401, (207) 945–5621.

i *FERC Contact:* Ed Lee (202) 219–2809.

j. *Comment Date:* 60 days from the filing date of license application.

k. *Description of Project:* The existing Howland Project consists of: (1) a 660-foot-long gravity dam; (2) a 270-acre reservior; (3) four 9 by 9-foot gates; (4) a 570-foot-long spillway; (5) an abandoned fishway; (6) an operating fishway and log sluice section; (7) a 90-foot-long cutoff wall; (8) a powerhouse with an installed capacity of 1,875–kW; and (9) appurtenant facilities. The applicant estimates that the total average annual generation would be 8,300 MWh. All generated power is utilized within the applicant's electric utility system.

1. With this notice, we are initiating consultation with the *MAINE STATE HISTORIC PRESERVATION OFFICER (SHPO),* as required by Section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date of this application and serve a copy of the request on the applicant.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26937 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Preliminary Permit

October 2, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Preliminary Permit.

b. Project No.: 11619–000.

c. Date filed: August 26, 1998.

d. Applicant: Mokelumne River Water and Power Authority.

e. Name of Project: Middle Bar Project.

f. Location: On Mokelumne River, in Amador and Calaveras Counties, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Henry M. Hirata, PE, Mokelumne River Water and Power Authority, P.O. Box 1810, 1810 E. Hazelton Avenue, Stockton, CA 95201, (209) 468–3000.

i. FERC Contact: Mr. Robert Bell, (202) 219–2806.

j. Comment Date: December 11, 1998.

k. Description of Project: The proposed project would consist of: (1) a proposed 190-foot-high, 800-foot-long Concrete Arch dam; (2) a proposed reservoir having a storage capacity of 40,000 acre-feet with normal water surface elevation of 684 feet msl; (3) a proposed intake structure; (4) a proposed 200-foot-long 15-foot-diameter steel penstock; (5) a proposed powerhouse containing one generating unit with an installed capacity of 31–MW; (6) a proposed outlet works; (7) a proposed 3-mile-long, 230-kV transmission line; and (8) appurtenant facilities.

The project would have an annual generation of 80 GWH and would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9 Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies Under Permit—A priliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anymore may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and

Procedure, 18 CFR 385.210, .211, .214, In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'' ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A Copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–26959 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6174–1]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; NSPS Polymeric Coating of Supporting Substrates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS Subpart Subpart VVV; for the Polymeric Coating of Supporting Substrates Facilities, Part 60, Subpart VVV; OMB No. 2060–0181; EPA No. 1284.05; expiration date February 28, 1999. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 9, 1998.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr/icr.htm, and refer to EPA ICR No. 1284.05.

SUPPLEMENTARY INFORMATION:

Title: NSPS Subpart VVV, Polymeric Coating of Supporting Substrates Facilities; OMB No. 2060–0181; EPA No. 1284.05; Expiration date February 28, 1999. This is a request for an extension of a currently approved collection.

Abstract: All data in this ICR that is recorded and reported is required by 40 CFR part 60, subpart VVV. The monitoring and record keeping requirements include: maintain records of startups, shutdowns, malfunctions, periods where the continuous monitoring system is inoperative (60.7(b)), and of all measurements including performance test measurements, operating parameters of monitoring device results for catalytic or thermal incinerator, carbon adsorption system, condensation system, vapor capture system and/or total enclosure (60.744(c–h); and monitor actual 12-month VOC use and make semi-annual estimate of projected VOC use, if affected facility uses less than 95 Mg/year of VOC or is subject to provisions specified in § 60.742(c)(3) and other information required by this part recorded in a permanent file suitable for inspection. The file shall be retained for at least two years.

Following notification of startup, the reviewing authority might inspect the source to check if the pollution control devices are properly installed and operated. Performance test reports are used by the Agency to discern a source's initial capability to comply with the emission standard, and note the operating conditions specified above under which compliance was achieved. Data obtained during periodic visits by Agency personnel from records maintained by the respondents are tabulated and published for internal Agency use in compliance and enforcement programs. The semiannual reports are used for problem identification, as a check on source operation and maintenance, and for compliance determinations.

The required information consisting of emissions data and other information have been determined not to be private. However, any information submitted to the agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 5, 1998. (63 FR 10870). No comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 79 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

New Affected Entities: Owners or Operators of Polymeric Coating Operations of Supporting Substrates.

Estimated Number of Respondents: 56.

Frequency of Response: Initial report, semiannual report of compliance and quarterly reports of non-compliance or monitoring failings.

Estimated Total Annual Hour Burden: 14,376 hours.

Estimated Total Annualized Cost Burden: $270,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to OMB No. 2060–0181 and EPA No. 1284.05 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: October 1, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–27029 Filed 10–7–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6173–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Source Compliance and State Action Reporting/Compliance Reporting to the Aerometric Information and Retrieval System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Source Compliance and State Action Reporting, EPA ICR Number 0107.06, OMB control number 2060–0096, current expiration date 10/31/98. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. #0107.06.

SUPPLEMENTARY INFORMATION:

Title: Source Compliance and State Action Reporting, EPA ICR Number 0107.06, OMB control number 2060–0096, current expiration date 10/31/98. This is a request for extension of a currently approved collection.

Abstract: Source Compliance and State Action reporting is an activity whereby State, District, Commonwealth and territorial (hereafter referred to as State) governments make air compliance information available to EPA on a quarterly basis via input to the Aerometric Information and Retrieval System (AIRS). The information provided to EPA includes compliance determinations and compliance activities. EPA uses this information to assess progress toward meeting emission requirements developed under the authority of the Clean Air Act to protect and maintain the atmospheric environment and the public health. The compliance information in AIRS is used by many States and by all ten EPA Regional offices on a frequent basis for managing activities of their air pollution control programs. This collection activity is authorized and required in the following subsections of regulations implementing the Clean Air Act under ''Subpart Q—Reports'' in 40 CFR part 51; §§ 51.323(c)(1), 51.324 (a) and (b), and 51.327.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 5/21/98 (63 FR 27951); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 169 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State Governments.

Estimated Number of Respondents: 52.

Frequency of Response: 4 times/yr.

Estimated Total Annual Hour Burden: 35,884 hours.

Estimated Total Annualized Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0107.06 and OMB Control No. 2060–0096 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: October 1, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–27030 Filed 10–7–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6174–2]

Meeting of the Small Community Advisory Subcommittee of the Local Government Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This meeting is the second for the Small Community Advisory Subcommittee of the Local Government Advisory Committee. Reports of various fact finding activities since the first meeting will be the focus of this gathering. The group takes up the work of an earlier advisory group known as the Small Towns Task Force. At this meeting, the subcommittee will hear presentations about the Small Community Activities Inventory Update

and the small town Mayors' fact finding mission. Part of the meeting will also be devoted to consideration of the proposed mission statement. The group will also hear from the technical assistance working group.

Responsibility for the Small Community Advisory Subcommittee of the Local Government Advisory Committee rests with the Office of Administrator, Office of Congressional and Intergovernmental Relations (OCIR) under the leadership of Joseph R. Crapa, Associate Administrator for Congressional and Intergovernmental Relations and Linda B. Rimer, Deputy Associate Administrator for State and Local Relations. OCIR serves as the Agency's principal liaison with State and local government officials and the organizations which represent them.

This is an open meeting and all interested persons are invited to attend. Meeting minutes will be available after the meeting and can be obtained by written request from the DFO. Members of the public are requested to call the DFO at the number listed below if planning to attend so that arrangements can be made to comfortably accommodate attendees as much as possible. However, seating will be on a first come, first serve basis.

This meeting will be conducted by tele conference from room 17 of the Washington Information Center. There are a limited number of call-in lines available for the public comment. Those individuals wishing to make a statement before the subcommittee are encouraged to attend the meeting in person or to submit a written statement rather than calling-in, however, telephone lines will be made available on a first-come, first serve basis. From 5:25–5:30 p.m. on October 21, the Committee will hear comments from the public. Each individual or organization wishing to address the Committee will be allowed one minute. Please contact the Designated Federal Officer (DFO) at the number listed below to schedule agenda time. Time will be allotted on a first come, first serve basis.

DATES: The meeting will begin at 4:00 p.m. on Wednesday, October 21 and conclude at 5:30 p.m.

ADDRESSES: The meeting will be held at the US EPA, Washington Information Center, room 17, located at 401 M Street, S.W. Washington, DC, 20460.

Requests for Minutes and other information can be obtained by writing to 401 M Street, S.W. (1502), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The DFO for this subcommittee is Steven Wilson. He is the point of contact for information concerning any Committee matters and can be reached by calling (202) 260–2294.

Dated: October 2, 1998.

Steven Wilson,

Designated Federal Officer, Small Community Advisory Subcommittee of the Local Government Advisory Committee.

[FR Doc. 98–27028 Filed 10–7–98; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[DA–98–1984]

Extended Frequency Capability for Aeronautical Transceivers

AGENCY: Federal Communications Commission.

ACTION: Notice; seeking comment.

SUMMARY: Commission staff seeks comment on a request for waiver to permit type-acceptance of aeronautical transceivers with transmit capability above the aeronautical radio band.

DATES: Comments are due on or before October 15, 1998; reply comments are due on or before October 26, 1998.

ADDRESSES: Parties should file the original comments and reply comments with Magalie Roman Salas Secretary, Federal Communications Commission, 1919 M Street, NW, Room 222, Washington, D.C. 20554. Copies of each filing must be sent to International Transcription Services, Inc. (ITS), 1231 20th Street, NW, Washington, D.C. 20036; Michael J. Wilhelm, Attorney-Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, 2025 M Street, NW, Room 837, Washington, D.C. 20554 (or via e-mail to mwilhelm@fcc.gov); and to Rockwell-Collins, Inc., 1300 Wilson Boulevard, Suite 200, Arlington, Virginia, 22209. The full text of the waiver requests, comments and reply comments will be available for public inspection and duplication during regular business hours in the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau, Federal Communications Commission, 2025 M Street, NW, Room 8010, Washington, DC 20554. Copies may also be obtained from ITS, 1231 20th Street, NW, Washington, D.C. 20036, (202) 857–3800.

FOR FURTHER INFORMATION CONTACT: Michael J. Wilhelm, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau at (202) 418–0860 or by e-mail to mwilhelm@fcc.gov.

SUPPLEMENTARY INFORMATION: This public notice was released September 29, 1998.

We have before us a request for waiver of § 87.173 of the Commission's Rules [1] tendered by Rockwell-Collins, Inc. (Rockwell) on July 8, 1998 (Rockwell Waiver Request). Rockwell seeks to amend the type acceptance authorizations for two of its VHF aviation transceivers by extending the upper limit of the transceivers' transmit range to 152 MHz. This frequency falls above the 136.975 MHz upper limit of the VHF aviation band as specified in the Commission's Rules,[2] thus necessitating a waiver if the type

[1] Rockwell has also requested waiver of § 2.106 of the Commission's Rules.

[2] The frequencies from 108 MHz to 117.95 are used for land-based navigation aids and aircraft may not transmit on these frequencies. Thus, the Commission's rules provide for aviation transceiver transmit capability only over the range 118 MHz to 136.975 (nominally, 137) MHz. See §§ 87.173 (b), 87.475 (b) (4), (5) of the Commission's Rules. The United States assignments correspond to those recognized internationally by the International Civil Aviation Organization (ICAO) See International Standards and Recommended Practices, Aeronautical Telecommunications, Annex 10 to the Convention on International Civil Aviation, Table 4–1, International Civil Aviation Organization, Montreal, 1997. When the ICAO adopts an International Standard and Recommended Practice it is binding on the contracting countries. See Amendment of Part 87 of the Commission's Rules to Establish Technical Standards and Licensing Procedures for Aircraft Earth Stations, Report and Order, PR Docket No. 90–315, 7 FCC Rcd 5895, 5896 n.12 (1992). In the United States, aviation channels are spaced 25 kHz apart. *See* §§ 87.173(b), 87.137(a) of the Commission's Rules. However, many European countries are implementing a channel plan employing 8.33 kHz channel spacing in order to derive more channels for air traffic control use. See Plan for the 8.33 kHz Channel Spacing Implementation in Europe, Edition 2.0, European Civil Aviation Conference, Dec. 2, 1996, at 2. Rockwell has received a waiver of the rules to permit type acceptance of certain models of its aviation transceivers which employ 8.33 kHz channel spacing for use in Europe. See Rockwell Collins, Inc. Request for Waiver of § 87.173 of the Commission's Rules Governing Assignable Carrier Frequencies in the Aviation Services, DA 98–2753, *Order,* 13 FCC Rcd 2954 (1998). Rockwell received type acceptance for its models: VHF–700B (type acceptance no. AJKPN822–1044); 618M–5 (type acceptance no. AJK8221046); VHF 900B (type acceptance no. AJKPN822–1047) and VHF–21C, –22C, –422C (type acceptance no. AJL8221116). The instant waiver request seeks to ''reincorporate'' the extended frequency range in Model 618M–5 and in Model VHF–21D, –22D and 422D. The VHF –21D –22D –422D models would differ from the VHF–21C, –22C, –422C models only with respect to the extended frequency range sought for the ''D'' versions. See Rockwell Waiver Request at 1, n.2. Other manufacturers have received similar waivers or have requests for waiver pending. See, *e.g.,* Honeywell, Inc. Commercial Flight Systems Group, Request for Waiver of § 87.173(b) of the Commission's Rules Governing Assignable Carrier Frequencies in the Aviation Services, DA 98–1176, *Order* (rel. June 17, 1998).

Frequency band	United States allocations
137–138 MHz	Space operation (space to earth); meteorological satellite (space to earth); space research (space to earth) mobile satellite (space to earth).
138–144 MHz	Government fixed and mobile.[4]
144–148 MHz	Amateur, Amateur satellite.
148–149.9 MHz	Mobile Satellite (earth to space) [Government fixed, mobile and mobile satellite (earth to space)]
149.9–150.05 MHz	Radionavigation satellite; Land Mobile Satellite (earth to space).
150.05–150.8 MHz	Government fixed and mobile.[5]
150.8–152 MHz	Fixed and land mobile.

acceptance authorizations are to be amended as Rockwell requests. The Rockwell extended frequency transceivers, if type accepted, would be capable of transmitting in the VHF aviation band and in the following bands which fall immediately above the aviation band.[3]

Thus, over[4] the frequency[5] range 137–152 MHz, the only authorized domestic aeronautical mobile allocations are the three Civil Air Patrol frequencies listed in note 4 *supra*. However, Rockwell submits that there are significant numbers of aeronautical mobile operations conducted on military air traffic control facilities in the 138–144 MHz, 148–149.9 MHz and 150.05–150.8 MHz bands *supra* which are allocated to government fixed and mobile use. Rockwell also contends that certain civil aircraft have occasion to use such frequencies.[6] As an example of aeronautical use of the three government bands *supra*, Rockwell lists a sampling of military frequencies currently in use at specific locations in the United States and abroad. With a single exception, the frequencies listed by Rockwell fall in the 138–144 MHz, 148–149.9 MHz and 150.05–150.8 MHz government bands.[7]

Rockwell supports its waiver request with letters from various military and civilian entities whose aircraft have a need to communicate both with civil aviation facilities in the 108–137 MHz aviation band and with military air traffic control facilities operating on frequencies in the 138–144 MHz, 148–149.9 MHz and 150.05–150.8 MHz bands. However, although Rockwell seeks type acceptance of transceivers which can transmit throughout their entire proposed 118 MHz–152 MHz extended frequency range, it has not demonstrated a need for these transceivers to have transmit capability on frequencies not used for aeronautical communications, namely: (a) the 137–138 MHz band, allocated to satellite communications and space research; (b) the 144–148 MHz amateur band, (c) the 149.9–150.05 MHz band allocated to satellite radionavigation and land mobile satellite communications; and (d) the 150.8–152 MHz band allocated for fixed and land mobile use. The Commission therefore seeks comment from users of these bands and other interested parties concerning whether Rockwell's extended frequency range transceivers, with transmission capability in bands (a)–(d) *supra*, would pose the threat of harmful interference to space research, satellite communications, radionavigation and amateur radio operations.

Interested parties may file comments on Rockwell's waiver request on or before October 15, 1998. Parties interested in filing reply comments must do so on or before October 26, 1998. All comments and reply comments should reference Rockwell's waiver request, with the designated DA number, and should be filed with the Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Room 222, Washington, DC 20554. A copy of each filing should be sent to: International Transcription Services (ITS), the Commission's duplication contractor, 1231 20th Street, NW, Washington, DC 20036; Michael J. Wilhelm, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, 2025 M Street, NW, Room 8010, Washington, DC 20554, or by e-mail to mwilhelm@fcc.gov; and Rockwell-Collins, Inc., 1300 Wilson Boulevard, Arlington, VA 22209.

The full text of the Rockwell Waiver Request and related comments and reply comments will be available for inspection and duplication during regular business hours in the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau, Federal Communications Commission, 2025 M Street, NW, Room 8010, Washington, DC 20554. Copies also may be obtained from ITS, (202) 857–3800.

Because disposition of the Rockwell waiver request may affect other parties, *e.g.* users of the non-aeronautical frequencies *supra* and other manufacturers of aircraft radio equipment, we find that it would be in the public interest to treat this matter as a ''permit but disclose'' proceeding in accordance with the Commission's *ex parte* rules. See § 1.1206 of the Commission's rules. Therefore, any *ex parte* communications that are made with respect to the issues herein will be permissible, but must be disclosed in accordance with § 1.1206(b) of the

[3] See § 2.106 of the Commission's Rules.

[4] The frequencies 143.75 MHz, 143.90 MHz and 148.15 MHz may be authorized to Civil Air Patrol land and mobile stations. See § 2.106 n. US10 of the Commission's Rules. In the band 138–144 MHz, fixed and mobile services are limited primarily to operations by the military services. See *id.* at n. G30. The international table of frequency allocations lists aeronautical mobile operations as a permissible use in the frequency band 138–144 MHz in International Telecommunications Union (ITU) Region 1. ITU Region 1 encompasses, generally, Europe, Asia and Africa. See § 2.104 of the Commission's Rules.

[5] In the band 150.05–150.8 MHz, fixed and mobile services are limited primarily to operations by the military services. See § 2.106 n. G30 of the Commission's Rules.

[6] Rockwell describes the extended frequency range transceivers as necessary for aircraft that ''fly in both civil and military airspace and under both civil and military jurisdictions.'' It describes these aircraft as ''dual use,'' including military aircraft used to transport heads of state or other ''very important persons'' and aircraft in the Civil Reserve Air Fleet that, in emergency conditions, serve a military transport role. See Rockwell Waiver Request at 2, 5 *citing* USAF Fact Sheet, Civil Reserve Air Fleet, <http://www.af.mil/news/factsheets/Civil__Reserve__Air__Fleet.html>, August, 1997.

[7] Rockwell lists one frequency outside the three government bands *supra*, namely 137.02 MHz in use as an approach control and departure control frequency at a United States Air Force base in Lakenheath, England. *See* Rockwell Waiver Request, Exhibit B, Royal Air Force En Route Supplement, British Isles and North Atlantic, pg. 78. That frequency, if actually in use, falls in a band reserved domestically for satellite communications and which is designated, internationally, for satellite and mobile use with a specific restriction against aeronautical mobile use. See § 2.106 of the Commission's Rules. In any comments that Rockwell or others may submit in response to this Public Notice, it would be useful to have information on whether the use of 137.02 MHz *supra* for aeronautical mobile purposes is an anomaly or whether there are other instances of aeronautical mobile use of frequencies in the band 137 MHz to 138 MHz.

Commission's rules. Parties making oral presentations are reminded that a memorandum summarizing the substance of the presentation must be filed, in duplicate, with the Commission's Secretary no later than one business day after the presentation. *Id*.

For further information, contact Michael J. Wilhelm of the Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, at (202) 418–0680 or via e-mail to mwilhelm@fcc.gov.

D'wana R. Terry,

Chief, Public Safety and Private Wireless Division.

[FR Doc. 98–27188 Filed 10–7–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA–98–1985]

Marine Frequencies for Land-Based Services.

AGENCY: Federal Communications Commission.

ACTION: Notice; seeking comment.

SUMMARY: Commission staff seeks comment on a request for waiver to permit land-based use of frequencies normally reserved for marine use.

DATES: Comments are due on or before October 14, 1998; reply comments are due on or before October 26, 1998.

ADDRESSES: Parties should file the original comments and reply comments with Magalie Roman Salas, Secretary, Federal Communications Commission, 1919 M Street, NW, Room 222, Washington, D.C. 20554. Copies of each filing must be sent to International Transcription Services, Inc. (ITS), 1231 20th Street, NW, Washington, D.C. 20036; Michael J. Wilhelm, Attorney-Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, 2025 M Street, NW, Room 8337, Washington, D.C. 20554 (or via e-mail to mwilhelm@fcc.gov); Henry Goldberg, Esq., Goldberg, Godles, Wiener and Wright, 1229 19th Street, NW, Washington, DC 20036; Mr. Peter Kierans, Vice President, Globe Wireless, 550 Pilgrim Drive, Foster City, CA 94404; Dalton C. Fauver, Asst. to the President, Mobile Marine Radio, Inc., 7700 Rinla Avenue, Mobile, AL 36619–1199. The full text of the waiver requests, comments and reply comments will be available for public inspection and duplication during regular business hours in the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau, Federal Communications Commission, 2025 M Street, NW, Room 8010, Washington, DC 20554. Copies may also be obtained from ITS, 1231 20th Street, NW, Washington, D.C. 20036, (202) 857–3800.

FOR FURTHER INFORMATION CONTACT: Michael J. Wilhelm, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau at (202) 418–0860 or by e-mail to mwilhelm@fcc.gov.

SUPPLEMENTARY INFORMATION: This public notice was released September 29, 1998.

On January 6, 1998, Technology for Communications International (TCI) filed a request for waiver of Sections §§ 80.207 [1] and 80.453 [2] of the Commission's Rules to enable it to use maritime frequencies for both maritime communications service and service to fixed and mobile transceivers on land, on a secondary, non-interference basis, using 2K8D1D and 2K8F1D emission. The secondary service would be devoted to a tracking and messaging system for the commercial trucking industry. TCI estimates that 300,000 vehicles would use its proposed service and that 70 High Frequency (HF) channels, each with a 3 kHz bandwidth, would be required to serve those vehicles. The frequencies that TCI has requested are those available to maritime coast stations for facsimile transmission pursuant to § 80.363(a)(2) of the Commission's Rules. According to TCI, the frequencies it has selected are not presently licensed to any U.S. maritime provider.

TCI requests a waiver of § 80.207 of the Commission's Rules so that its proposed system may use 2K8D1D and 2K8F1D emission with ''modern waveforms'' which, TCI asserts, would not cause objectionable interference to other users of the HF radiotelegraphy-facsimile bands. TCI proposes that each land station associated with the TCI system be provided with a TCI-issued letter acknowledging that the land station may operate under the authority of TCI's coast station license. The land station identifier would consist of the TCI coast station's call sign followed by a unique numeric or alphabetic identifier. The vehicular transceivers would be limited to an effective radiated power of 2 kilowatts, although 100 watts would typically be used, and the transceivers' antenna height above ground would be limited to 6.1 meters. The vehicular transceivers would communicate only with the TCI public coast station and would cease operation upon TCI's being given written notice from the Commission that interference was being caused to marine communications. TCI represents that it will afford priority to marine-originating communications through ''an appropriate electrical or mechanical means.''

The vehicular transceivers proposed by TCI would be tuned remotely, on command from TCI's proposed Promontory, Utah coast station, thereby to select an optimum frequency under varying propagation conditions. The TCI waiver request was accompanied by an application for the proposed Promontory, Utah, public coast station. Mobile Marine Radio (MMR) filed a Petition to Dismiss or Deny the TCI application alleging that the TCI system would cause interference to MMR's operations. Globe Wireless (Globe) filed letter comments contending that TCI's system should employ Part 90 land mobile frequencies and pointed out conflicts with some of the maritime frequencies selected by TCI. However, Globe supports secondary land mobile use of marine frequencies so long as that use is limited to incumbent public coast station licensees. TCI filed an opposition to the MMR petition and a response to the Globe letter comments.

Interested parties may file comments on TCI's waiver requests on or before October 15, 1998. Parties wishing to file reply comments must do so before October 26, 1998. All filings must reference TCI's requests for waiver, must bear the DA number contained in the caption of this Public Notice and must be filed with the Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Room 222, Washington, D.C. 20554. Copies of each filing must be sent to the following:

International Transcription Services, Inc., (ITS), 1231 20th Street, NW, Washington, D.C. 20036

Henry Goldberg, Esq., Goldberg, Godles, Wiener and Wright, 1229 19th Street, NW, Washington, DC 20036

Dalton C. Fauver, Asst. to the President, Mobile Marine Radio, Inc., 7700 Rinla Avenue, Mobile, AL 36619–1199

Michael J. Wilhelm, Attorney-Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, Public

[1] § 80.207 deals with classes of emission for maritime ship and coast stations.

[2] § 80.453 deals with the scope of communications of maritime coast and ship stations.

Safety and Private Wireless Division, 2025 M Street, NW, Room 8337, Washington, D.C. 20554 (or via e-mail to mwilhelm@fcc.gov)

Mr. Peter Kierans, Vice President, Globe Wireless, 550 Pilgrim Drive, Foster City, CA 94404

The full text of the waiver requests, comments and reply comments will be available for public inspection and duplication during regular business hours in the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau, Federal Communications Commission, 2025 M Street, NW, Room 8010, Washington, DC 20554. Copies may also be obtained from ITS, 1231 20th Street, NW, Washington, D.C. 20036, (202) 857–3800.

Because disposition of the TCI waiver request may affect other parties, *e.g.* users of the marine radio bands, other Public Coast station licensees and land mobile radio interests, we find that it would be in the public interest to treat this matter as a ''permit but disclose'' proceeding in accordance with the Commission's *ex parte* rules. *See* Section 1.1206 of the Commission's rules. Therefore, any *ex parte* communications that are made with respect to the issues herein will be permissible, but must be disclosed in accordance with Section 1.1206(b) of the Commission's rules. Parties making oral presentations are reminded that a memorandum summarizing the substance of the presentation must be filed, in duplicate, with the Commission's Secretary no later than one business day after the presentation. *Id.*

For further information, contact Michael J. Wilhelm of the Policy and Rules Branch, Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau, (202) 418–0870 or via e-mail to mwilhelm@fcc.gov.

D'wana R. Terry,

Chief, Public Safety and Private Wireless Division.

[FR Doc. 98–27187 Filed 10–7–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 4:02 p.m. on Friday, October 2, 1998, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to pending litigation.

In calling the meeting, the Board determined, on motion of Director Ellen S. Seidman (Director, Office of Thrift Supervision), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Director Julie L. Williams (Acting Comptroller of the Currency), and Chairman Donna Tanoue, that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: October 5, 1998.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–27113 Filed 10–5–98; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Jen-Trans International, Inc., 409 Joyce Kilmer Ave., New Brunswick, NJ 08901, Officer: Hassanein M. Mohamed, President

Vantage International Shipping, Inc., 10800 Morrow Circle South, Dearborn, MI 48126, Officer: Mustafa Ali Khalifa, President

EXPA CORPORATION, 4719 N.W. 72nd Ave., Miami, FL 33166, Officers: Jose F. Estrada, President, Cecilia Estrada, Secretary

Dynamic Network Team, Inc., 150–40 183rd St., Room 117, Jamaica, NY 11413, Officers: Wendy Wei, President, David Wei, CEO

Dated: October 2, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–26983 Filed 10–7–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 22, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Susan Betsy Carrington, Dallas, Texas, and Louise Ann French Smotherman, Roswell, New Mexico; to acquire voting shares of InterBank, Inc., Sayre, Oklahoma, and thereby indirectly acquire InterBank, N.A., Elk City, Oklahoma.

Board of Governors of the Federal Reserve System, October 2, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–26984 Filed 10–7–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies

owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 2, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Clarkston Financial Corporation, Clarkston, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Clarkston State Bank, Clarkston, Michigan (in organization).

2. Community Shores Bank Corporation, Roosevelt Park, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Community Shores Bank, Norton Shores, Michigan, a *de novo* bank.

3. PSB Corporation, Wellsburg, Iowa; to acquire 100 percent of the voting shares of Denver Ban Corporation, Denver, Iowa, and thereby indirectly acquire Denver Savings Bank, Denver, Iowa.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Texas Financial Bancorporation, Inc., Minneapolis, Minnesota; to acquire 100 percent of the voting shares of TNB Bancorporation, Inc., Brenham, Texas, and thereby indirectly acquire TNB Bancorporation of Delaware, Inc., Wilmington, Delaware, and Texas National Bank, Brenham, Texas.

Board of Governors of the Federal Reserve System, October 2, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–26985 Filed 10–7–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 98-24718) published on pages 49357 and 49358 of the issue for Tuesday, September 15, 1998.

Under the Federal Reserve Bank of Boston heading, the entry for Peoples Heritage Financial Group, Inc., Portland, Maine, is revised to read as follows:

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Peoples Heritage Financial Group, Inc., Portland, Maine; to merge with SIS Bancorp, Inc., Springfield, Massachusetts, and thereby indirectly acquire Springfield Institution for Savings, Springfield, Massachusetts, and Glastonbury Bank & Trust Company, Glastonbury, Connecticut.

In connection with this application, Peoples Heritage Merger Corp., Portland, Maine, has applied to become a bank holding company by acquiring 100 percent of the voting shares of Springfield Institution for Savings, Springfield, Massachusetts, and Glastonbury Bank & Trust Company, Glastonbury, Connecticut.

Comments on this application must be received by October 9, 1998.

Board of Governors of the Federal Reserve System, October 2, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–26986 Filed 10–7–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–01–99]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

1. Statement in Support of Application for Waiver of Inadmissibility—(0920–0006)—Extension—National Center for Infectious Disease Control and Prevention (NCID)—Section 212(a)(1) of the Immigration and Nationality Act states that aliens with specific health-related conditions are ineligible to receive visas and ineligible for admission into the United States. The Attorney General may waive application of this inadmissibility on health-related grounds if an application for waiver is filed and approved by the consular office considering the application for a visa. The Division of Quarantine, NCID uses this application primarily to collect information to establish and maintain records of waiver applicants in order to notify the Immigration and Naturalization Service (INS) when terms, conditions, and controls imposed by waiver are not met. We are requesting the extension of this data collection for three years. The total burden hours are 33.

Respondents	Number of respondents	Number of responses/respondents	Avg. burden/responses (in hrs.)
Businesses or Organizations	2001	1	.165

2. Gonococcal Isolate Surveillance Project (GISP) (0920–0307)—Extension—The Division of STD Prevention, National Center for HIV, STD and TB Prevention (NCHSTP) is requesting a 3-year extension of OMB clearance to continue the Gonococcal Isolate Surveillance Project (GISP). The objectives of GISP are: (1) to monitor trends in antimicrobial susceptibility of strains of *Neisseria gonorrhoeae* in the United States and (2) to characterize resistant isolates. GISP provides critical surveillance for antimicrobial resistance, allowing for informed

treatment recommendations. GISP was begun in 1986 as a voluntary surveillance project and now involves 5 regional laboratories and 26 publicly funded sexually transmitted disease clinics around the country. The STD clinics submit up to 25 gonococcal isolates per month to the regional laboratories, which measure susceptibility to a panel of antibiotics. Limited demographic and clinical information corresponding to the isolates are submitted directly by the clinics to CDC.

During 1986–1997, GISP has demonstrated the ability to effectively achieve its objectives. The recent emergence of resistance to fluoroquinolones, commonly used therapies for gonorrhea, has been identified through GISP and makes ongoing surveillance critical. Data gathered through GISP are used to alert the public health community to changes in antimicrobial resistance in *N. gonorrhoeae* which may impact treatment choices, and to guide recommendations made in CDC's STD Treatment Guidelines, which are published every several years. The total burden hours are 6196.

Respondent	Number of respondents	Number of responses/respondents	Avg. burden (in hrs.)
Laboratory	5	1056	1
Clinic	26	204	0.166

3. Annual Submission of the Quantity of Nicotine Contained in Smokeless Tobacco Products Manufactured, Imported, or Packaged in the United States—New—Oral use of smokeless tobacco represents a significant health risk which can cause cancer and a number of noncancerous oral conditions, and can lead to nicotine addiction and dependence. The Centers for Disease Control and Prevention's (CDC) Office on Smoking and Health (OSH) has been delegated the authority for implementing major components of the Department of Health and Human Services' (HHS) tobacco and health program, including collection of tobacco ingredients information. HHS's overall goal is to reduce death and disability resulting from cigarette smoking and other forms of tobacco use through programs of information, education and research.

The Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4401 *et seq.*, Pub. L. 99–252) requires that each person who manufactures, packages, or imports smokeless tobacco provide the Secretary of HHS annually with a report on the quantity of nicotine contained in smokeless tobacco products. This notice implements this nicotine reporting requirement. CDC is requesting OMB clearance to collect this information for three years. A standard methodology for measurement of quantity of nicotine in smokeless tobacco has been developed. The methodology (''Protocol for Analysis of Nicotine, Total Moisture, and pH in Smokeless Tobacco Products'') is intended to provide standardized measurement of nicotine, total moisture, and pH in smokeless tobacco products.

Background

In 1989, the smokeless industry submitted a business review letter to the Department of Justice (DOJ), in accordance with 28 C.F.R. Section 50.6. This letter requested approval of a collaborative industry effort to determine standard nicotine reporting. In January 1993, DOJ extended permission to the smokeless industry to begin the development of uniform methods for analyzing smokeless tobacco products for nicotine or moisture content. The first meeting of the work group, which represented the ten major domestic manufacturers of smokeless tobacco, was convened on July 7, 1993. After a series of meetings of the joint industry work group, a standard methodology was approved by the work group and submitted to OSH for approval. The protocol was revised by OSH based on individual comments received from peer reviewers and the Division of Environmental Health Laboratory Sciences, National Center for Environmental Health, CDC. The total annual burden hours are 18766.*

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hrs.)
Tobacco manufacturers	11	1	1,706

*Please note that these figures are based on the average reporting time and cost estimations for six major smokeless tobacco manufacturers as reported by Patton Boggs, LLP.

Charles W. Gollmar,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–26987 Filed 10–7–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Hospital Infection Control Practices Advisory Committee: Meeting

In accordance with section l0(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Hospital Infection Control Practices Advisory Committee (HICPAC).

Times and Dates: 8:30 a.m.–5 p.m., November 16, 1998. 8:30 a.m.–12 p.m., November 17, 1998.

Place: CDC, Building 16, Room 1111/1111A, l600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with providing advice and guidance to the Secretary, the Assistant Secretary for Health, the Director, CDC, and the Director, National Center for Infectious Diseases (NCID), regarding (1) the practice of hospital

infection control; (2) strategies for surveillance, prevention, and control of nosocomial infections in U.S. healthcare facilities; and (3) updating guidelines and other policy statements regarding prevention of nosocomial infections.

Matters to be Discussed: Agenda items will include a review of the strategic direction of HICPAC; the first draft of the Guideline for Environmental Controls in Healthcare Facilities; public comments on the Draft Guideline for Prevention of Surgical Site Infections; priority areas for HICPAC/CDC guideline development; CDC activities of interest to the Committee.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Michele L. Pearson, M.D., Medical Epidemiologist, Investigation and Prevention Branch, Hospital Infections Program, NCID, CDC, 1600 Clifton Road, NE, M/S E–69, Atlanta, Georgia 30333, telephone 404/639–6413.

Dated: October 2, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–26988 Filed 10–7–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Active Pharmaceutical Ingredients (API) Seminar

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA), New Jersey District, is announcing the following meeting: Active Pharmaceutical Ingredients (API) Seminar. The topic to be discussed is Current Good Manufacturing Practices for API's. This seminar will address issues related to the application of good manufacturing practices to the manufacture of API's by New Jersey bulk drug manufacturers.

Date and Time: The meeting will be held on Thursday, November 19, 1998, 8:30 a.m. to 4:30 p.m.

Location: The meeting will be held at Princeton Novotel Hotel, 100 Independence Way, Princeton, NJ 08540.

Contact: Paul T. Wiener, Office of Regulatory Affairs, New Jersey District, Food and Drug Administration, 10 Waterview Blvd., Parsippany, NJ 07540, 973–526–6014, FAX 973–526–6069, e-mail ''pwiener@ora.fda.gov''.

Registration: Send registration information (including name, title, firm name, address, telephone, and fax number) to the contact person. Preregistration is requested, but registration will be accepted at the door based on the availability of seating from 8:30 a.m. to 9:30 a.m. on the date of the meeting.

If you need special accommodations due to a disability, please contact Paul T. Wiener at least 7 days in advance.

SUPPLEMENTARY INFORMATION: Copies of talks can be obtained by direct request to speakers at the time of the meeting. If you need overnight accommodations, call the hotel at 609–520–1200, and request the special seminar room rate.

There is no charge for the seminar. A light breakfast will be served.

Dated: October 1, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–26927 Filed 10–7–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–2012–N]

RIN 0938–AI66

Medicaid Program; Disproportionate Share Hospital Payments-Institutions for Mental Disease

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the Federal share disproportionate share hospital (DSH) allotments for Federal fiscal years (FFYs) 1998 through 2002. This notice also describes the methodology for calculating the Federal share DSH allotments for FFY 2003 and thereafter, and announces the FFY 1998 and FFY 1999 limitations on aggregate DSH payments States may make to institutions for mental disease (IMD) and other mental health facilities. In addition, it clarifies the DSH reporting requirements required by the Balanced Budget Act of 1997 (BBA '97).

EFFECTIVE DATE: The Federal DSH allotments apply to FFYs beginning October 1, 1997 and thereafter. The IMD limitations published in this notice apply to Medicaid DSH payments made in FFY 1998 and 1999.

FOR FURTHER INFORMATION CONTACT: Miles McDermott, (410) 786–3722, Christine Hinds, (410) 786–4578.

SUPPLEMENTARY INFORMATION:

I. Background

Section 4721(c) of the Balanced Budget Act of 1997 (BBA '97), Public Law 105–33, added section 1923(a)(2)(D) of the Social Security Act (the Act) to require States to submit to HCFA, by October 1, 1998, a description of the methodology used by the State to identify and make payments to DSHs, including children's hospitals, on the basis of the proportion of low-income and Medicaid patients served by such hospitals. If a title XIX State plan does not specify this methodology by October 1, 1998, it is not in compliance with section 1902(a)(13)(A)(iv) of the Act. The State is also required to submit an annual report to HCFA describing the DSH payments made to each disproportionate share hospital.

Section 4721(a) of the BBA '97 amended section 1923(f) of the Act to require that Federal Medicaid DSH expenditures be limited to statutorily defined Federal share DSH allotments. These Federal share DSH allotments are listed in the statute for FFYs 1998 through 2002. For FFY 2003 and thereafter, a State's Federal share DSH allotment will be equal to the State's prior FFY Federal share DSH allotment, if the prior FFY Federal share DSH allotment is greater than 12 percent of Federal medical assistance expenditures for the current Federal fiscal year. If the prior year Federal DSH allotment is less than 12 percent of the Federal share of medical assistance expenditures for the current year, the prior FFY Federal share DSH allotment will be increased by the Consumer Price Index for all Urban Consumers (CPI–U) for the previous FFY, capped at 12 percent of the State's current FFY Federal medical assistance expenditures.

In addition, section 4721(b) of the BBA '97 added section 1923(h) to the Act to provide that Federal financial participation (FFP) is not available for DSH payments to IMDs and other mental health facilities that are in excess of a State-specific aggregate limit. Section 1923(h) of the Act could be read to set the State-specific IMD limit at the lesser of the 1995 Federal mental health DSH payments applicable to the 1995 DSH allotment (as reported on the Form HCFA–64 as of January 1, 1997), or a percentage of 1995 Federal mental health DSH payments. This reading, which compares an amount with a decreased percentage of that amount, results in a meaningless comparison because a percentage of a number is always less than that number. We do not believe Congress intended a reading that would render the comparison meaningless. Furthermore, such an

interpretation would impose a severely restrictive limitation that does not appear to be consistent with congressional intent. This being the case, HCFA has interpreted the aggregate limit to be the lesser of a State's FFY 1995 total computable (State and Federal share) IMD and other mental health facility DSH expenditures applicable to the State's FFY 1995 DSH allotment (as reported to HCFA on the Form HCFA–64 as of January 1, 1997), or the amount equal to the product of the State's current year total computable DSH allotment and the applicable percentage.

Each State's limit on DSH payments to IMDs and other mental health facilities is calculated by first determining the State's total computable DSH expenditures attributable to the FFY 1995 DSH allotment for mental health facilities and inpatient hospitals. This is based upon the total computable DSH expenditures reported by the State on the Form HCFA–64 as mental health DSH and inpatient hospital as of January 1, 1997.

Once we determine the total computable amount of DSH expenditures applicable to the FFY 1995 DSH allotment, we then calculate the applicable percentage. The applicable percentage for FFYs 1998, 1999, and 2000 is calculated by dividing the total computable amount of IMD and mental health DSH expenditures applicable to the State's FFY 1995 DSH allotment by the total computable amount of all DSH expenditures (mental health facility plus inpatient hospital) applicable to the FFY 1995 DSH allotment. For FFY 2001 and thereafter, the applicable percentage is defined as the lesser of the applicable percentage as calculated above or 50 percent for fiscal year 2001; 40 percent for fiscal year 2002; and 33 percent for each succeeding year.

The applicable percentage is then applied to each State's total computable FFY DSH allotment for the current FFY. The State's total computable FFY DSH allotment is calculated by dividing the State's Federal share DSH allotment for the FFY by the State's Federal medical assistance percentage (FMAP) for that FFY.

In the final step of the calculation, the State's total computable IMD DSH limit for the FFY is set at the lesser of the product of a State's current year total computable DSH allotment and the applicable percentage, or the State's FFY 1995 total computable IMD and other mental health facility DSH expenditures applicable to the State's FFY 1995 DSH allotment as reported on the Form HCFA–64.

II. Calculation of the Annual Federal Share State DSH Allotments

Section 1923(f) of the Act contains a State specific chart which provides the annual FFY limit on the amount of Federal share DSH expenditures available for FFYs 1998 through 2002. This chart is reproduced below. In addition, section 601 and 602 of Public Law 105–78 (enacted November 11, 1997) amended the Federal share DSH allotments for FFY 1998 only for Minnesota and Wyoming. Those numbers are reflected in the chart.

DSH ALLOTMENT

[In millions of dollars]

State or district	FY 98	FY 99	FY 00	FY 01	FY 02
Alabama	293	269	248	246	246
Alaska	10	10	10	9	9
Arizona	81	81	81	81	81
Arkansas	2	2	2	2	2
California	1,085	1,068	986	931	877
Colorado	93	85	79	74	74
Connecticut	200	194	164	160	160
Delaware	4	4	4	4	4
District of Columbia	23	23	23	23	23
Florida	207	203	197	188	160
Georgia	253	248	241	228	215
Hawaii	0	0	0	0	0
Idaho	1	1	1	1	1
Illinois	203	199	193	182	172
Indiana	201	197	191	181	171
Iowa	8	8	8	8	8
Kansas	51	49	42	36	33
Kentucky	137	134	130	123	116
Louisiana	880	795	713	658	631
Maine	103	99	84	84	84
Maryland	72	70	68	64	61
Massachusetts	288	282	273	259	244
Michigan	249	244	237	224	212
Minnesota	33	16	16	16	16
Mississippi	143	141	136	129	122
Missouri	436	423	379	379	379
Montana	0.2	0.2	0.2	0.2	0.2
Nebraska	5	5	5	5	5
Nevada	37	37	37	37	37
New Hampshire	140	136	130	130	130
New Jersey	600	582	515	515	515
New Mexico	5	5	5	5	5
New York	1,512	1,482	1,436	1,361	1,285
North Carolina	278	272	264	250	236
North Dakota	1	1	1	1	1
Ohio	382	374	363	344	325
Oklahoma	16	16	16	16	16
Oregon	20	20	20	20	20
Pennsylvania	529	518	502	476	449

DSH ALLOTMENT—Continued

[In millions of dollars]

State or district	FY 98	FY 99	FY 00	FY 01	FY 02
Rhode Island	62	60	58	55	52
South Carolina	313	303	262	262	262
South Dakota	1	1	1	1	1
Tennessee	0	0	0	0	0
Texas	979	950	806	765	765
Utah	3	3	3	3	3
Vermont	18	18	18	18	18
Virginia	70	68	66	63	59
Washington	174	171	166	157	148
West Virginia	64	63	61	58	54
Wisconsin	7	7	7	7	7
Wyoming	0.067	0	0	0	0

For FFY 2003 and each succeeding fiscal year, a State's Federal share DSH allotment for the current FFY will be equal to the State's prior FFY Federal share DSH allotment, if this amount is greater than 12 percent of the State's current FFY Federal share of medical assistance expenditures. If the State's prior FFY Federal share DSH allotment is less than 12 percent of the State's current FFY Federal share of medical assistance expenditures, the State's prior FFY Federal DSH allotment will be increased by the CPI–U for the previous FFY, capped at 12 percent of the State's current FFY Federal share of medical assistance expenditures.

III. Calculation of the FFY 1998 and 1999 IMD/DSH Limitations

Section 1923(h) of the Act specifies the methodology to be used to establish the limits on the amount of DSH payments that a State can make to IMD and other mental health facilities. FFP is not available for IMD DSH payments that exceed the lesser of the State's FFY 1995 total computable mental health DSH expenditures applicable to the State's FFY 1995 DSH allotment as reported to HCFA on the Form HCFA–64 as of January 1, 1997; or the amount equal to the product of the State's current FFY total computable DSH allotment and the applicable percentage.

For FFYs 1998 through 2000, the applicable percentage is computed as the ratio of (1) the State's FFY 1995 total computable (Federal and State share) mental health DSH payments applicable to the State's FFY 1995 DSH allotment and as reported on the Form HCFA–64 as of January 1, 1997 to (2) the State's FFY 1995 total computable amount of all DSH expenditures (mental health facility and inpatient hospital) applicable to the State's FFY 1995 DSH allotment as reported on the Form HCFA–64 as of January 1, 1997. For FFYs 2001 and thereafter, the applicable percentage is defined as the lesser of the applicable percentage as calculated above, or 50 percent for fiscal year 2001; 40 percent for fiscal year 2002; and 33 percent for each succeeding year.

Once the applicable percentage is calculated, it is applied each FFY to the State's current FFY total computable DSH allotment. (A State's total computable FFY DSH allotment is calculated by dividing the State's Federal share DSH allotment for the applicable FFY by the State's Federal medical assistance percentage for that FFY). This result is then compared to the State's FFY 1995 total computable mental health DSH expenditures applicable to the State's FFY 1995 DSH allotment as reported on the Form HCFA–64 as of January 1, 1997. The lesser of these two amounts is the State's limitation on total computable IMD DSH expenditures for the FFY.

The following charts detail each State's IMD DSH limitation for FFY 1998 and 1999.

Key to IMD Limitation Chart for FFY 1998

Columns/Description

Column A—Name of State

Column B—Total computable FFY 1995 inpatient hospital DSH expenditures as reported on the Form HCFA–64.

Column C—Total computable FFY 1995 mental health facility DSH expenditures as reported on the Form HCFA–64 as of January 1, 1997.

Column D—Total computable of all inpatient hospital DSH expenditures and mental health facility DSH expenditures for FFY 1995 as reported on the Form HCFA–64 as of January 1, 1997 (Column B + Column C)

Column E—Applicable percentage is total computable FFY 1995 mental health facility DSH expenditures divided by total computable all inpatient hospital and mental health facility DSH expenditures for FFY 1995 (Column C/Column D)

Column F—FFY 1998 Federal share DSH allotment

Column G—FFY 1998 Federal Medical Assistance Percentage (FMAP)

Column H—FFY 1998 Total Computable DSH allotment (Column F/Column G)

Column I—Applicable Percent of FFY 1998 Total computable DSH allotment (Column E * Column H)

Column J—IMD DSH Limit = the lesser of Column I or C.

Column K—IMD DSH Limit converted to Federal share (Column J * Column G)

A State	B Inpatient hospital services FY 95 total comp.	C IMD and mental health services FY 95 DSH total comp.	D (B + C) total inpatient mental health & IMD FY 95 DSH total comp.	E (C/D) applicable percent	F FY 98 Federal share DSH allotment	G FY 98 FMAP (percent)	H (F/G) FY 98 DSH allotment total comp.	I (E * H) Applicable percent of FY 98 DSH allotment	J (Lessor of CORI) FY 98 IMD DSH limit total comp.	K (J * G) FY 98 IMD DSH limit federal share
Alabama	413,006,229	4,451,770	417,457,999	1.07	293,000,000	9.32	422,677,438	4,507,430	4,451,770	3,085,967
Alaska	2,508,827	17,611,765	20,118,592	87.54	10,000,000	59.80	16,722,408	14,638,754	14,638,754	8,753,975
Arizona	93,916,100	28,474,900	122,391,000	23.27	81,000,000	65.33	123,985,918	28,845,966	28,474,900	18,602,652
Arkansas	3,242,000	0	3,242,000	0.00	2,000,000	72.84	2,745,744	0	0	0
California	2,191,435,462	0	2,191,435,462	0.00	1,085,000,000	51.23	2,117,899,668	0	0	0
Colorado	173,900,441	594,776	174,495,217	0.34	93,000,000	51.97	178,949,394	609,958	594,776	309,105
Connecticut	303,359,275	105,573,725	408,933,000	25.82	200,000,000	50.00	400,000,000	103,267,503	103,267,503	51,633,752
Delaware	7,069,000	0	7,069,000	0.00	4,000,000	50.00	8,000,000	0	0	0
District of Columbia	39,532,234	6,545,136	46,077,370	14.20	23,000,000	70.00	32,857,143	4,667,247	4,667,247	3,267,073
Florida	184,468,014	149,714,986	334,183,000	44.80	207,000,000	55.65	371,967,655	166,642,625	149,714,986	83,316,390
Georgia	407,343,557	0	407,343,557	0.00	253,000,000	60.84	415,844,839	0	0	0
Hawaii	0	0	0	0.00	0	50.00	0	0	0	0
Idaho	2,081,429	0	2,081,429	0.00	1,000,000	69.59	1,436,988	0	0	0
Illinois	315,868,508	89,408,276	405,276,784	22.06	203,000,000	50.00	406,000,000	89,567,825	89,408,276	44,704,138
Indiana	79,960,783	153,566,302	233,527,085	65.76	201,000,000	61.41	327,308,256	215,236,355	153,566,302	94,305,066
Iowa	12,011,250	0	12,011,250	0.00	8,000,000	63.75	12,549,020	0	0	0
Kansas	11,587,208	76,663,508	88,250,716	86.87	51,000,000	59.71	85,412,829	74,198,232	74,198,232	44,303,764
Kentucky	161,480,654	34,767,327	196,247,981	17.72	137,000,000	70.37	194,685,235	34,490,471	34,490,471	24,270,944
Louisiana	1,085,314,215	126,115,103	1,211,429,318	10.41	880,000,000	70.03	1,256,604,312	130,818,018	126,115,103	88,318,407
Maine	99,957,958	60,958,342	160,916,300	37.88	103,000,000	66.04	155,966,081	59,083,099	59,083,099	39,018,479
Maryland	22,226,467	120,873,531	143,099,998	84.47	72,000,000	50.00	144,000,000	121,633,744	120,873,531	60,436,768
Massachusetts	469,653,946	105,635,054	575,289,000	18.36	288,000,000	50.00	576,000,000	105,765,608	105,635,054	52,817,527
Michigan	133,258,800	304,765,552	438,024,352	69.58	249,000,000	53.58	464,725,644	323,343,592	304,765,552	163,293,383
Minnesota	24,240,000	5,257,214	29,497,214	17.82	33,000,000	52.14	63,291,139	11,280,220	5,257,214	2,741,111
Mississippi	182,608,033	0	182,608,033	0.00	143,000,000	77.09	185,497,470	0	0	0
Missouri	521,946,524	207,234,618	729,181,142	28.42	436,000,000	60,68	718,523,401	204,205,669	204,205,669	123,912,000
Montana	237,048	0	237,048	0.00	200,000	70.56	283,447	0	0	0
Nebraska	6,449,102	1,811,337	8,260,439	21.93	5,000,000	61.17	8,173,941	1,792,370	1,792,370	1,096,393
Nevada	73,560,000	0	73,560,000	0.00	37,000,000	50.00	74,000,000	0	0	0
New Hampshire	92,675,916	94,753,948	187,424,864	50.58	140,000,000	50.00	280,000,000	141,555,954	94,753,948	47,376,974
New Jersey	842,664,980	357,370,461	1,200,035,441	29.78	600,000,000	50.00	1,200,000,000	357,359,907	357,359,907	178,679,953
New Mexico	6,744,801	0	6,744,801	0.00	5,000,000	72.61	6,886,104	0	0	0
New York	2,418,869,368	605,000,000	3,023,869,368	20.01	1,512,000,000	50.00	3,024,000,000	605,026,136	605,000,000	302,500,000
North Carolina	193,201,966	236,072,627	429,274,593	54.99	278,000,000	63.09	440,640,355	242,323,044	236,072,627	148,938,220
North Dakota	214,523	988,478	1,203,001	82.17	1,000,000	70.43	1,419,849	1,166,657	988,478	696,185
Ohio	535,731,956	93,432,758	629,164,714	14.85	382,000,000	58.14	657,034,744	97,571,537	93,432,758	54,321,806
Oklahoma	20,019,969	3,273,248	23,293,217	14.05	16,000,000	70.51	22,691,817	3,188,737	3,188,737	2,248,378
Oregon	11,437,908	19,975,092	31,413,000	63.59	20,000,000	61.46	32,541,490	20,692,683	19,975,092	12,276,692
Pennsylvania	417,946,827	556,161,443	974,108,270	57.09	529,000,000	53.39	990,822,251	565,704,193	556,161,443	296,934,594
Rhode Island	108,503,167	2,397,833	110,901,000	2.16	62,000,000	53.17	116,607,109	2,521,207	2,397,833	1,274,928
South Carolina	366,681,364	72,076,341	438,757,705	16.43	313,000,000	70.23	445,678,485	73,213,243	72,076,341	50,619,214
South Dakota	321,120	751,299	1,072,419	70.65	1,000,000	67.75	1,476,015	1,034,044	751,299	509,005
Tennessee	0	0	0	0.00	0	63.36	0	0	0	0
Texas	1,220,515,401	292,513,592	1,513,028,993	19.33	979,000,000	62.28	1,571,933,205	303,901,531	292,513,592	182,177,465
Utah	3,621,116	934,586	4,555,702	20.51	3,000,000	72.58	4,133,370	847,946	847,946	615,439
Vermont	19,979,252	9,071,297	29,050,549	31.23	18,000,000	62.18	28,948,215	9,039,342	9,039,342	5,620,663
Virginia	129,313,480	7,770,268	137,083,748	5.67	70,000,000	51.49	135,948,728	7,705,932	7,705,932	3,967,784
Washington	171,725,815	163,836,435	335,562,250	48.82	174,000,000	52.15	333,652,924	162,904,217	162,904,217	84,954,549
West Virginia	66,962,606	18,887,045	85,849,651	22.00	64,000,000	73.67	86,873,897	19,112,381	18,887,045	13,914,086
Wisconsin	6,609,524	4,492,011	11,101,535	40.46	7,000,000	58.84	11,896,669	4,813,746	4,492,011	2,643,099
Wyoming	0	0	0	0.00	67,000	63.02	106,315	0	0	0
Total	13,655,962,123	4,139,781,984	17,795,739,107	.....	10,272,267,000	.....	18,159,399,514	4,314,277,124	4,123,749,357	2,298,455,927

Key to IMD Limitation Chart for FFY 1999

Columns/Description

Column A—Name of State

Column B—Total computable FFY 1995 inpatient hospital DSH expenditures as reported on the Form HCFA–64.

Column C—Total computable FFY 1995 mental health facility DSH expenditures as reported on the Form HCFA–64 as of January 1, 1997.

Column D—Total computable of all inpatient hospital DSH expenditures and mental health facility DSH expenditures for FFY 1995 as reported on the Form HCFA–64 as of January 1, 1997 (Column B + Column C)

Column E—Applicable percentage is total computable FFY 1995 mental health facility DSH expenditures divided by total computable all inpatient hospital and mental health facility DSH expenditures for FFY 1995 (Column C/Column D)

Column F—FFY 1999 Federal share DSH allotment

Column G—FFY 1999 Federal Medical Assistance Percentage (FMAP)

Column H—FFY 1999 Total Computable DSH allotment (Column F/Column G)

Column I—Applicable Percent of FFY 1999 Total computable DSH allotment (Column E * Column H)

Column J—IMD DSH Limit = the lessor of Column I or C.

Column K—IMD DSH Limit converted to Federal share (Column J * Column G)

A State	B Inpatient hospital FY 98 DSH total comp.	C IMD and mental health FY 95 DSH total comp.	D (B+C) total inpatient IMD & mental health FY 95 DSH total computable	E (C/D) applicable percent	F FY 99 federal share DSH allotment	G FY 99 FM AP (percent)	H (F/G) FY 99 DSH allotment total comp.	I (E*H) applicable percent of FY 99 DSH allotment	J (LESSOR OF C OR I) FT 99 IMD DSH limit total comp.	K (J*G) FY 99 IMD DSH limit federal share
Alabama	413,006,229	4,451,770	417,457,999	1.07	269,000,000	69.2	388,335,499	4,141,208	4,141,208	2,868,615
Alaska	2,506,827	17,611,765	20,118,592	87.5	10,000,000	59.80	16,722,408	14,638,754	14,638,754	8,753,975
Arizona	93,916,100	28,474,900	122,391,000	23.27	81,000,000	65.50	123,664,122	28,771,098	28,474,900	18,651,060
Arkansas	3,242,000	0	3,242,000	0.00	2,000,000	72.96	2,741,228	0	0	0
California	2,191,435,462	0	2,191,435,462	0.00	1,068,000,000	51.55	2,071,774,976	0	0	0
Colorado	173,900,441	594,776	174,495,217	0.34	85,000,000	50.59	168,017,395	572,696	572,696	289,727
Connecticut	303,359,275	105,573,725	408,933,000	25.82	194,000,000	50.00	388,000,000	100,169,478	100,169,478	50,084,739
Delaware	7,069,000	0	7,069,000	0.00	4,000,000	50.00	8,000,000	0	0	0
District of Columbia	39,532,234	6,545,136	46,077,370	14.20	23,000,000	70.00	32,857,143	4,667,247	4,667,247	3,267,073
Florida	184,468,014	149,714,986	334,183,000	44.80	203,000,000	55.82	363,668,936	162,924,774	149,714,986	83,570,905
Georgia	407,343,557	0	407,343,557	0.00	248,000,000	60.47	410,120,721	0	0	0
Hawaii	0	0	0	0.00	0	50.00	0	0	0	0
Idaho	2,081,429	0	2,081,429	0.00	1,000,000	69.85	1,431,639	0	0	0
Illinois	315,868,508	89,408,276	405,276,784	22.06	199,000,000	50.00	398,000,000	87,802,942	87,802,942	43,901,471
Indiana	79,960,783	153,566,302	233,527,085	65.76	197,000,000	61.01	322,897,886	212,336,116	153,566,302	93,690,801
Iowa	12,011,250	0	12,011,250	0.00	8,000,000	63.32	12,634,239	0	0	0
Kansas	11,587,208	76,663,508	88,250,716	86.87	49,000,000	60.05	81,598,668	70,884,865	70,884,865	42,566,362
Kentucky	161,480,654	34,767,327	196,247,981	17.72	134,000,000	70.53	189,990,075	33,658,675	33,658,675	23,739,464
Louisiana	1,085,314,215	126,115,103	1,211,429,318	10.41	795,000,000	70.37	1,129,742,788	117,611,177	117,611,177	82,762,985
Maine	99,957,958	60,958,342	160,916,300	37.88	99,000,000	66.40	149,096,386	56,480,720	56,480,720	37,503,198
Maryland	22,226,467	120,873,531	143,099,998	84.47	70,000,000	50.00	140,000,000	118,255,028	118,255,028	59,127,514
Massachusetts	469,653,946	105,635,054	575,289,000	18.36	282,000,000	50.00	564,000,000	103,562,158	103,562,158	51,781,079
Michigan	133,258,800	304,765,552	438,024,352	69.58	244,000,000	52.72	462,822,458	322,019,407	304,765,552	160,672,399
Minnesota	24,240,000	5,257,214	29,497,214	17.82	16,000,000	51.50	31,067,961	5,537,164	5,257,214	2,707,465
Mississippi	182,608,033	0	182,608,033	0.00	141,000,000	76.78	183,641,573	0	0	0
Missouri	521,946,524	207,234,618	729,181,142	28.42	423,000,000	60.24	702,191,235	199,564,037	199,564,037	120,217,376
Montana	237,048	0	237,048	0.00	200,000	71.73	278,823	0	0	0
Nebraska	6,449,102	1,811,337	8,260,439	21.93	5,000,000	61.46	8,135,373	1,783,913	1,783,913	1,096,393
Nevada	73,560,000	0	73,560,000	0.00	37,000,000	50.00	74,000,000	0	0	0
New Hampshire	92,675,916	94,753,948	187,429,864	50.55	136,000,000	50.00	272,000,000	137,507,830	94,753,948	47,376,974
New Jersey	842,664,980	357,370,461	1,200,035,441	29.78	582,000,000	50.00	1,164,000,000	346,639,109	346,639,109	173,319,555
New Mexico	6,744,801	0	6,744,801	0.00	5,000,000	72.98	6,851,192	0	0	0
New York	2,418,869,368	605,000,000	3,023,869,368	20.01	1,482,000,000	50.00	2,964,000,000	593,021,649	593,021,649	296,510,825
North Carolina	193,201,966	236,072,627	429,274,593	54.99	272,000,000	63.07	431,266,846	237,168,235	236,072,627	148,891,006
North Dakota	214,523	988,478	1,203,001	82.17	1,000,000	69.94	1,429,797	1,174,831	988,478	691,342
Ohio	535,731,956	93,432,758	629,164,714	14.85	374,000,000	58.26	641,949,880	95,331,392	93,432,758	54,433,925
Oklahoma	20,019,969	3,273,248	23,293,217	14.05	16,000,000	70.84	22,586,110	3,173,883	3,173,883	2,248,378
Oregon	11,437,908	19,975,092	31,413,000	63.59	20,000,000	60.55	33,030,553	21,003,672	19,975,092	12,094,918
Pennsylvania	417,946,827	556,161,443	974,108,270	57.09	518,000,000	53.77	963,362,470	550,026,191	550,026,191	295,749,083
Rhode Island	108,503,167	2,397,833	110,901,000	2.16	60,000,000	54.05	111,008,326	2,400,154	2,397,833	1,296,029
South Carolina	366,681,364	72,076,341	438,757,705	16.43	303,000,000	69.85	433,786,686	71,259,733	71,259,733	49,774,924
South Dakota	321,120	751,299	1,072,419	70.06	1,000,000	68.16	1,467,136	1,027,824	751,299	512,085
Tennessee	0	0	0	0.00	0	63.09	0	0	0	0
Texas	1,220,515,401	292,513,592	1,513,028,993	19.33	950,000,000	62.45	1,521,216,974	294,096,573	292,513,592	182,674,738
Utah	3,621,116	934,586	4,555,702	20.51	3,000,000	71.78	4,179,437	857,397	857,397	615,439
Vermont	19,979,252	9,071,297	29,050,549	31.23	18,000,000	61.97	29,046,313	9,069,974	9,069,974	5,620,663
Virginia	129,313,480	7,770,268	137,083,748	5.67	68,000,000	51.60	131,782,946	7,469,805	7,469,805	3,854,419
Washington	171,725,815	163,836,435	335,562,250	48.82	171,000,000	52.50	325,714,286	159,028,220	159,028,220	83,489,816
West Virginia	66,962,606	18,887,045	85,849,651	22.00	63,000,000	74.47	84,597,825	18,611,641	18,611,641	13,860,089
Wisconsin	6,609,524	4,492,011	11,101,535	40.46	7,000,000	58.85	11,894,647	4,812,928	4,492,011	2,643,548
Wyoming	0	0	0	0.00	0	64.08	0	0	0	0
Total	13,655,962,123	4,139,781,984	17,795,744,107	.....	9,937,200,000	.....	17,580,602,954	4,199,062,498	4,060,107,094	2,262,910,356

IV. Annual Reporting Requirements

Section 1923(a)(2)(D) of the Act requires the State to provide a description of the methodology it uses to identify and make payments to DSH hospitals. The methodology provided in the State plan must clarify that payments to hospitals are made on the basis of the proportion of low-income and Medicaid patients served by such hospitals.

HCFA believes that the majority of States' current DSH methodologies contained in their State plan satisfies the methodology requirements in this section. If a State does not specify a methodology that makes payments to hospitals on the basis of the proportion of low-income and Medicaid patients served in its State plan, the State is required to submit an amendment to its State plan by October 1, 1998 clarifying their DSH methodology.

This section of the law also requires States to submit an annual report to the Secretary describing the DSH payments made to each hospital. HCFA recommends that a State submit hospital specific data (name of hospital,

type of hospital, for example, children, psychiatric, public vs. private, and annual payment) to their HCFA regional office at the close of the first quarter of the Federal fiscal year following the fiscal year in which the DSH was paid. For example, for FFY 1998, the State submits to HCFA the hospital specific data by December 31, 1998. HCFA also recommends that this be a separate report from the Form HCFA–64, and preferably prepared using a spreadsheet application (for example Excel).

HCFA will take into consideration any public comments received regarding this notice's annual reporting requirements when drafting future DSH/IMD notices.

V. Collection of Information Requirements

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHHS), has submitted to the Office of Management and Budget (OMB) the following request for Emergency review. We are requesting an emergency review because the collection of this information is needed prior to the expiration of the normal time limits under OMB's regulations at 5 CFR, Part 1320. The Agency cannot reasonably comply with the normal clearance procedures because of the statutory requirement to implement section 4721(c) of Balanced Budget Act of 1997.

HCFA is requesting OMB review and approval of this collection within 16 working days, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individual designated below, within 15 working days of publication of this notice in the **Federal Register.**

During this 180-day period HCFA will pursue OMB clearance of this collection as stipulated by 5 CFR 1320.5.

In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting public comment on each of these issues for the information collection requirements summarized and discussed below.

States are required by section 1923(a)(2)(D) of the Act to provide a description of the methodology it uses to identify and make payments to DSH hospitals. The methodology provided in the State plan must clarify that payments to hospitals are made on the basis of the proportion of low-income and Medicaid patients served by such hospitals. HCFA believes that the current DSH methodologies contained in most State plans will satisfy the methodology requirements in this section. As such, HCFA also believes that this requirement is exempt from the PRA, since less then ten States will have to amend their State plan.

This notice also discusses the statutory requirement for States to submit an annual report to the Secretary describing the DSH payments made to each hospital. In the annual report, HCFA recommends that a State submit hospital specific data (name of hospital, type of hospital, for example, children, psychiatric, public vs. private, and annual payment) to their HCFA regional office at the close of the first quarter of the Federal fiscal year following the fiscal year in which the DSH was paid. For example, for FY 1998, the State submits to HCFA the hospital specific data by December 31, 1998. HCFA also recommends that this be a separate report from the Form HCFA-64, and preferably prepared using a spreadsheet application (for example Excel).

The burden associated with this requirement is the time and effort to prepare and submit the annual report. It is estimated that it will take 54 States including territories, 40 hours to comply with this reporting requirement, for a total annual burden of 2,160 hours.

We have submitted a copy of this notice to OMB for its review of the information collection requirements above. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, E-mail your request, including your address, phone number and HCFA regulation identifier HCFA–2012-N, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

As noted above, comments on these information collection and record keeping requirements must be mailed or faxed to the designee referenced below, within 15 working days of publication of this collection in the **Federal Register**:

Health Care Financing Administration, Office of Information Services, Standards and Security Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850. Attn: John Burke HCFA–2012-N. Fax Number: (410) 786–0262 and,

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10236, New Executive Office Building, Washington, DC 20503, Attn: Laura Oliven, HCFA Desk Officer. Fax Number: (202) 395–6974 or (202) 395–5167.

VI. Impact Statement

The Regulatory Flexibility Act, 5 U.S.C. 601 through 612, requires a regulatory flexibility analysis for every rule subject to proposed rulemaking procedures under the Administrative Procedure Act, 5 U.S.C. 552, unless we certify that the rule will not have a significant economic impact on a substantial number of small entities. For purposes of a RFA, States and individuals are not considered small entities. However, providers are considered small entities. Additionally, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a notice may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

The BBA'97 replaces the current DSH allotment methodology with statutorily defined Federal DSH allotments. This notice announces the annual FFY limit on the amount of Federal share DSH expenditures available for FFYs 1998 through 2002. This notice also describes the methodology for calculating the Federal share DSH allotments for FFY 2003 and thereafter. We estimate the impact of the provisions of the BBA'97 will result in the following savings to the Federal Government:

FEDERAL SAVINGS IN BILLIONS

FY 1999	FY 2000	FY 2001	FY 2002	FY 2003
$0.7	$1.9	$2.8	$3.5	$4.0

Based on these findings, the limits imposed by the BBA '97 will negatively impact the availability of FFP to States,

thus negatively impacting the availability of Medicaid expenditures to hospitals, especially IMDs.

While the statue mandates the reductions in DSH payments, we do not believe that this notice will have a significant economic impact on a substantial number of small entities because it reflects no new policies or procedures, and should have an overall positive impact on payments to DSHs by informing States of the extent to which DSH payments may be increased without violating statutory limitations.

The Unfunded Mandate Reform Act of 1995 requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits for any rule that may result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by both the private sector, of $100 million. The notice has no consequential effect on State, local, tribal governments, or the private sector and will not create an unfunded mandate.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Authority: Section 1923(a)(2), (f), (h), and of the Social Security Act (42 U.S.C. 1396r–4(a), (f), (h), and) and Public Law 105–33.

(Catalog of Federal Assistance Program No. 93.778, Medical Assistance Program)

Dated: February 24, 1998.

Nancy-Ann Min Deparle,

Administrator, Health Care Financing Administration.

Dated: September 17, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–26930 Filed 10–7–98; 8:45 am]

BILLING CODE 4212–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Services; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Minority Review Committee, Mbrs Subcommittee B.

Date: November 19–20, 1998.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael A. Sesma, Scientific Review Administrator, Office of Scientific Review, NIGMS, Natcher Building, Room 1AS19H, 45 Center Drive, Bethesda, MD 20892, (301) 594–2048.

(Catalog of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 1, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–27042 Filed 10–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Tropical Disease Research Units.

Date: October 28–30, 1998.

Time: October 28, 1998, 8:30 a.m. to recess.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Montgomery Village Ave., Gaithersburg, MD 20879.

Time: October 29, 1998, 9:00 a.m. to recess.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Montgomery Village Ave., Gaithersburg, MD 20879.

Time: October 30, 1998, 9:00 a.m. to adjournment.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Montgomery Village Ave., Gaithersburg, MD 20879.

Contact Person: Vassil S. Georgiev, Scientific Review Program, Division of Extramual Activities, NIAID, NIH, Solar Building, Room 4C04, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, (301) 496–8206.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 1, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–27043 Filed 10–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel PAR–97–056—Integrated Preclinical/clinical Aids Vaccine Development.

Date: November 12–13, 1998.

Time: November 12, 1998, 8:30 a.m. to recess.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, Terrace Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Time: November 13, 1998, 9:00 a.m. to adjournment.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, Terrace Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Hagit S. David, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activites, NIAID, NIH, Solar Building, Room 4C03, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–402–4596.

(Catalogue of Federal Domestic Assistance Program Nos. 93.856, Microbiology and Infectious Diseases Research; 93.855, Allergy, Immunology, and Transplantation Research, National Institutes of Health, HHS)

Dated: October 2, 1998.

LaVerne Y. Stringfield,

Committe Management Officer, NIH.

[FR Doc. 98–27044 Filed 10–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Acquired Immunodeficiency Syndrome Research Review Committee.

Date: November 6, 1998.

Time: 9:00 a.m. to adjournment.

Agenda: To review and evaluate grant applications.

Place: Solar Building, Conference Room 1A1, 6003 Executive Boulevard, Rockville, MD 20852.

Contact Person: Paula S. Strickland, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C02, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–402–0643.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 2, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–27045 Filed 10–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Bacteriology and Mycology Subcommittee 1, October 22, 1998, 8:30 AM to October 23, 1998, 5:00 PM, Holiday Inn Georgetown, 2101 Wisconsin Ave, Washington, DC, 20007 which was published in the **Federal Register** on September 24, 1998, 63FR185.

The meeting will be held at the Bethesda Ramada Inn, Bethesda, MD. The time and dates are the same. The meeting is closed to the public.

Dated: October 1, 1998.

LaVerne Y. Stringfield,

Committee Management Offer, NIH.

[FR Doc. 98–27040 Filed 10–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Pathology A Study Section, October 20, 1998, 8:30 a.m. to October 21, 1998, 5:00 p.m., Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD, 20815which was published in the **Federal Register** on September 24, 1998, 63 FR 185.

The meeting will be held at the OMNI Shoreham, Washington, DC. The time and dates are the same. The meeting is closed to the public.

Dated: October 1, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–27041 Filed 10–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Surgery, Radiology and Bioengineering Initial Review Group; Surgery, Anesthesiology and Trauma Study Section.

Date: October 12–13, 1998.

Time: 1:00 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Ramada, 8400 Wisconsin Ave., Bethesda, MD 20814

Contact Person: Gerald L. Becker, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, MDCN–5–01.

Date: October 13–14, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To provide concept review of proposed grant applications.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814

Contact Person: Syed Husain, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7850, Bethesda, MD 20892, (301) 435–1224.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Oncological Sciences Initial Review Group, Chemical Pathology Study Section.

Date: October 14–16, 1998.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Edmund S. Copeland, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7804, Bethesda, MD 20892, (301) 435–1715.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Cardiovascular Sciences Initial Review Group Hematology Subcommittee 1.

Date: October 15–16, 1998.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Ramada, 8400 Wisconsin Ave., Bethesda, MD 20814

Contact Person: Robert Su, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892, (301) 435–1195.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Endocrinology and Reproductive Sciences Initial Review Group, Endocrinology Study Section.

Date: October 15–16, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814

Contact Person: Syed M. Amir, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6168, MSC 7892, Bethesda, MD 20892, (301) 435–1043.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Endocrinology and Reproductive Sciences Initial Review Group, Reproductive Biology Study Section.

Date: October 19–20, 1998.

Time: 8:30 a.m to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Square, 2000 N Street, NW, Washington, DC 20036.

Contact Person: Dennis Leszczynski, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, (301) 435–1044.

Name of Committee: Oncological Sciences Initial Review Group, Radiation Study Section.

Date: October 19–21, 1998.

Time: 8:30 a.m to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Chevy Chase Pavilion, 4300 Military Road, NW, Washington, DC 20015.

Contact Person: Paul K. Strudler, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Endocrinology and Reproductive Biology Special Emphasis Panel.

Date: October 21, 1998.

Time: 2:00 p.m to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Syed Amir, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6168, MSC 7892, Bethesda, MD 20892, (301) 435–1043.

Name of Committee: Oncological Sciences Initial Review Group Experimental Therapeutics Subcommittee 1

Date: October 22–23, 1998.

Time: 8:30 a.m to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Arlington Hyatt, 1325 Wilson Boulevard, Arlington, VA 22209.

Contact Person: Philip Perkins, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718.

Name of Committee: Endocrinology and Reproductive Sciences Initial Review Group, Reproductive Endocrinology Study Section.

Date: October 26–27, 1998.

Time: 8:00 a.m to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle, NW, Washington, DC 20005.

Contact Person: Abubakar A. Shaikh, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 435–1042.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 26–27, 1998.

Time: 8:00 a.m to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Gopal C. Sharma, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112 MSC 7816, Bethesda, MD 20892, (301) 435–1783.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Statistics Study Section.

Date: October 26, 1998.

Time: 8:00 a.m to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, N.W., Washington, DC 20007.

Contact Person: Eileen W. Bradley, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 26–27, 1998.

Time: 8:00 a.m to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, N.W., Washington, DC 20007.

Contact Person: Raymond Bahor, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3048, MSC 7766, Bethesda, MD 20892, (301) 435–0903.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–SSS–8(50).

Date: October 26–27, 1998.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Nadarajen Vydelingum, Scientific Review Administrator, Special Study Section—8, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, MSC 7854, Rm 5122, Bethesda, MD 20892, (301) 435–1176.

Name of Committee: Cardiovascular Sciences Initial Review Group, Cardiovascular Study Section.

Date: October 26–27, 1998.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Gordon L. Johnson, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7802, Bethesda, MD 20892, (301) 435–1212.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 27–28, 1998.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.

Contact Person: Houston Baker, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1175.

Name of Committee: Musculoskeletal and Dental Sciences Initial Review Group, Oral Biology and Medicine Subcommittee 1.

Date: October 27–28, 1998.

Time: 8:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Old Town Alexandria, Alexandria, VA 22314.

Contact Person: Priscilla B. Chen, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

Name of Committee: Cardiovascular Sciences Initial Review Group, Cardiovascular and Renal Study Section.

Date: October 27–28, 1998.

Time: 8:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, Chevy Chase, MD 20815.

Contact Person: Anthony C. Chung, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7802, Bethesda, MD 20892, (301) 435–1213.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 1, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–27046 Filed 10–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301)443–7978.

Evaluation of the Cooperative Agreement for Mental Health Care Provider Education in HIV/AIDS Program II—New—The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Mental Health Services (CMHS) intends to conduct a multi-site evaluation of its Cooperative Agreement for Mental Health Care Provider Education in HIV/AIDS Program II. The education programs funded under this cooperative agreement are designed to disseminate knowledge of the psychological and neuropsychiatric sequelae of HIV/AIDS to both traditional (e.g., psychiatrists, psychologists, nurses, primary care physicians, medical students, and social workers) and non-traditional (e.g., clergy, and alternative health care workers) first-line providers of mental health services. The multi-site evaluation is designed to assess the effectiveness of particular training curricula, document the integrity of training delivery formats, and assess the effectiveness of the various training delivery formats.

Analyses will assist CMHS in documenting the numbers and types of traditional and non-traditional mental health providers accessing training; the content, nature and types of training participants receive; and the extent to which trainees experience knowledge, skill and attitude gains/changes as a result of training attendance. The multi-site evaluation design uses a two-tiered data collection and analytic strategy to collect information on (1) the organization and delivery of training, and (2) the impact of training on participants' knowledge, skills and abilities.

Information about the organization and delivery of training will be collected from trainers and staff who are funded by these cooperative agreements hence there is no respondent burden. All training participants attending sessions lasting less than 6 hours will be asked to complete a brief evaluation form at the end of the training session. Trainees attending sessions lasting 6 hours or longer will be asked to complete brief pre-and post-session evaluation questionnaires. A sample of trainees attending sessions lasting 6 hours or longer will also be asked to complete a brief follow-up telephone interview three months after the training session. CMHS has funded seven education sites under the Cooperative Agreement for Mental Health Care Provider Education in HIV/AIDS Program II. The annual burden estimates for this activity are shown below:

Form	Responses per respondent	Estimated number of respondents (× 7 sites)	Hours per response	Total hours
All Sessions				
Session Report Form	1	60 × 7 = 420	.080	34
Sessions Less than 6 Hours				
Participant Evaluation Form	1	600 × 7 = 4200	0.167	701
Neuropsychiatric Participant Evaluation Form	1	75 × 7 = 525	0.167	88
Ethics Participant Evaluation Form	1	75 × 7 = 525	0.167	88
Sessions 6 hours or Longer				
Pre-Training Participant Inventory	1	200 × 7 = 1400	0.167	234
Post-Training Participant Inventory	1	200 × 7 = 1400	0.250	350
Neuropsychiatric Pre-Training Participant Inventory	1	50 × 7 = 350	0.167	58
Neuropsychiatric Post-Training Participant Inventory	1	50 × 7 = 350	0.25	88
Participant Follow-up Form	1	45 × 7 = 315	.250	79
Total		7,420		1719

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Daniel Chenok, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: October 2, 1998.

Richard Kopanda,

Executive Officer, SMHSA.

[FR Doc. 98–26990 Filed 10–7–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Termination of the Red Wolf Reintroduction Project in the Great Smoky Mountains National Park

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of termination of reintroduction project.

SUMMARY: The Fish and Wildlife Service (Service), in conjunction with the National Park Service, has decided to terminate attempts to restore a wild population of red wolves in the Great Smoky Mountains National Park (Park) in North Carolina and Tennessee. Extremely low pup survival and the inability of the red wolves to establish home ranges within the Park are the reasons for the decision. Establishing a reintroduced population of red wolves depends upon the released animals producing wild offspring that survive to replace natural mortality and increase the population. Our goal for the recovery of this species includes establishing at least three self-sustaining wild populations that total a minimum of 220 animals; without surviving wild offspring, there is no basis for us to expect to contribute to this recovery goal in the Park.

FOR FURTHER INFORMATION CONTACT: V. Gary Henry, Red Wolf Coordinator, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801 (828/258–3939, ext. 226).

SUPPLEMENTARY INFORMATION:

Background

The Park was selected as a potential restoration site due to the large federal land base provided by the Park and surrounding national forests. The project in the Park began in late 1991, with an experimental release of one family group of red wolves. The objective of the experimental release was to evaluate the interactions between red wolves and people, livestock, and coyotes. Initial indications were that restoration was feasible. Subsequent releases of 37 red wolves took place from late 1992 through 1996.

Of 30 wild-born pups from seven litters born in past years, only 2 that were removed from the wild at 6 months of age are known to have survived. Obtaining information on the fate of pups is difficult as they are too small to wear telemetry collars, the usual means of monitoring free-ranging adult red wolves. Pathologists found parvovirus in one of a litter of four pups that all died during midsummer 1993. Later that same summer, coyotes attacked and killed a pup from a separate litter of three. In addition, we have documented malnutrition and heavy infestation of internal and external parasites in pups and adults that have been captured. Therefore, we suspect several factors are contributing to the lack of pup survival including (1) parvovirus and other common canine diseases; (2) internal and external parasites; (3) poor nutrition; and (4) predation by black bears, coyotes, and other predators.

Of the 37 red wolves released in the Park, 26 were recaptured from or died outside Park boundaries. We suspect low availability of prey in the steep, heavily forested slopes that comprise the majority of the Park's 500,000 acres is the likely reason the red wolves stray from the Park. Low food availability can cause wolves to wander widely and/or expand their range. The fact that this was the typical response of the red wolves when released in the Park suggests that it is less preferred habitat when compared to the lower-elevation agricultural land of the surrounding area.

How Many Red Wolves Currently Exist in the Park?

We are presently monitoring two adult red wolves and two pups in the wild. There are six captive red wolves held in pens in the Park. In addition to the four red wolves currently being monitored, there are 32 fate unknown wild red wolves. Contact was lost with four of these as adult animals when their radio transmitters ceased to function. Contact was lost with the remainder while they were pups—before they were old enough to be instrumented with radio telemetry collars. Fate unknown pups include 25 from past years and three from this year. The fate unknown animals are likely dead. The monitored adult male has been observed consorting with a coyote and the monitored adult female has been frequenting campgrounds.

What Will Happen to the Red Wolves Now in the Park?

We are in the process of relocating the six captive red wolves currently being held in the Park. We plan to recapture the remaining known four free-ranging red wolves by the end of the calendar year 1998. These animals will be incorporated into the captive population by placement in one of 36 captive breeding facilities. Exact location will be determined by available space. These animals will also be evaluated for possible release into the wild and one or more may be released into the experimental population in northeastern North Carolina when and if the opportunity becomes available.

Current regulations regarding the Park population (50 CFR 17.84(c)) justify removing the animals for the following reasons:

(1) moving an animal for genetic purposes,

(2) taking an animal that constitutes a demonstrable but non-immediate threat to human safety or that is responsible for depredations to lawfully present domestic animals or other personal property, and

(3) aiding a sick, injured, or orphaned specimen.

Our experiences indicate that leaving the few animals now present would result in one of two things in the future—death or interbreeding with coyotes. Since all red wolves are managed as one population for genetic purposes, the loss of these animals would be a loss to the gene pool.

Activities have already been implemented to capture the adult male for genetic reasons. Removing the female is justified for several reasons. Left alone without other adult red wolves, the female would likely eventually consort and mate with coyotes. Therefore, she will also be removed for genetic purposes. In addition, the frequenting of campgrounds presents another problem of a behaviorally unsuitable animal with a tolerance of humans. This represents a demonstrable but non-immediate threat to human safety and could be responsible for depredation of personal property in the future. For example, there have been three other red wolves that started frequenting campgrounds, gradually progressed to becoming active in daylight hours in the campgrounds, and finally destroyed personal property. Removing the adults then leaves two orphaned pups. The orphaning of the pups by removal of the adults and our past experience of no survival of pups beyond one year indicates that the pups will likely die. In the unlikely event that they survive, the pups would likely consort and breed with coyotes because other red wolves are not available for mates. Therefore, they need to be removed for humanitarian and genetic reasons.

What Regulations Will Apply to the Park Population of Red Wolves?

We will retain the experimental population designation (defined as Graham, Haywood, Jackson, Madison and Swain counties, North Carolina and Blount, Cocke, Monroe, and Sevier counties, Tennessee) and the applicable regulations for this population (50 CFR 17.84(c)), for the immediate future. These regulations provide that any person may take red wolves found on lands owned or managed by Federal, State, or local government agencies, provided that such taking is incidental to lawful activities, is unavoidable, unintentional, and not exhibiting a lack of reasonable due care, or is in defense

of that person's life or the lives of others. On private lands, the following regulations apply:

(1) Any person may take red wolves on private land provided that such taking is not intentional or willful, or is in defense of that person's life or the lives of others.

(2) Any private landowner, or any other individual having his or her permission, may take red wolves found on his or her property when the wolves are in the act of killing livestock or pets, provided that freshly wounded or killed livestock or pets are evident.

(3) Any private landowner may take red wolves found on his or her property after efforts by project personnel to capture such animals have been abandoned, provided that the Service project leader or biologist has approved such actions in writing.

All takings must be reported within 24 hours to the Park superintendent or State wildlife enforcement officer. The provisions also apply to red wolves found in areas outside the experimental population boundaries, with the exception that reporting of taking or harassment to the Park superintendent, while encouraged, is not required.

These regulations will be retained in case some of the animals that we have lost contact with are still alive and are taken. You should report any wolf-like animal observed with a radio collar around the neck to the Park superintendent. We will examine longevity records for red wolves in the wild and will amend the nonessential experimental population regulation to remove the Park when animals with which we have lost contact would be expected to have lived out their life span.

Are Additional Restoration Efforts Planned for the Future?

We are analyzing information gathered on the restoration of the red wolf over the last 11 years to aid in the selection of future release sites. With the limited resources available to all endangered species programs, it is our responsibility to use the most accurate and current information to make the best choices for recovering the red wolf. This responsibility includes selecting release sites that allow us to establish a population as efficiently as possible for the sake of the species and the interests of the American public.

All large federally owned lands (170,000 acres or more) within the red wolf's historic range are being included in the assessment of potential release sites. However, no site has been selected at this time. We hope to develop a ''short list'' of potential areas that offer the greatest biological potential and then further refine the selection process based on the interests, land use, and attitudes of the public surrounding a particular site. The selection of the next release site will be a very complex process. This process must balance biological, logistical, and socio-political factors. All of these factors can contribute to the success or failure of individual red wolves and, ultimately, to the overall recovery of the species.

Once a potential site is selected, we will follow the regulatory process for establishing a nonessential experimental population by publishing a proposed rule in the **Federal Register**. Comments and recommendations concerning any aspect of the proposed rule will be solicited from the public, concerned government agencies, the scientific community, industry, and other interested parties. In making the final decision, we will take into consideration any comments or additional information received. The final determination will also be published in the **Federal Register**.

Author. The primary author of this notice is V. Gary Henry (see **FOR FURTHER INFORMATION CONTACT** section).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

Dated: September 30, 1998.

H. Dale Hall,

Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 98–26841 Filed 10–7–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–056–1110–00]

Notice of Vehicle Access Closure

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of seasonal closure of the Bronson Peak Road (BLM Road 5100) and area closure in the Rio Grande County, Colorado to motorized vehicle use during Colorado's combined deer & elk hunting seasons for 1998 and 1999. Closure dates will be October 8, 1998 thru November 8, 1998 and October 7, 1999 thru November 7, 1999.

SUMMARY: Under the authority and requirement of 43 CFR 8364.1 and 43 CFR 8341.1 and the Federal Land Policy and Management Act of 1976, notice is hereby given that effective October 8, 1998, public lands described below are seasonally closed to all motorized vehicle use during Colorado's 1998 and 1999 combined deer & elk hunting seasons. This seasonal closure is in addition to the existing closure (FR Doc. 94–26114, filed 10–20–94), which permanently affects 3600 acres of Public lands east of BLM Road 5100 in T.38N., R7E., Sections 34 & 35 and T.37N., R7E., Sections 2, 3, 10, 11, 14, & 15. This seasonal closure will affect approximately an additional 1730 acres of public lands west of BLM Road 5100, and east of Greenie Mountain and will impose a temporary closure of approximately 2½ miles of BLM Road 5100 in the Rio Grande County, south of Monte Vista, Colorado, in T.38N., R.7E., Section 9, and that area SE of an existing OHV trail, extending diagonally from the NE corner to the SW corner of Section 4. Through a cooperative effort with the Colorado Division of Wildlife, and U.S. Fish & Wildlife Service and BLM, this seasonal closure is intended to help affect movement of elk off the Monte Vista Wildlife Refuge and to minimize animal damage caused by elk to the refuge and adjacent private lands. Elk are often observed attempting to leave the refuge, heading towards the slopes of Greenie Mountain, and being turned back to the safe confines of the refuge by vehicular traffic and by hunters attempting to get near enough for a shot and harvest of animals. This area/road closure will eliminate this extremely dangerous situation where a considerable number of hunters shoot at elk as they leave the wildlife refuge in the early mornings, and will protect fragile vegetation and highly erodible soils from adverse affects of vehicle travel during the wet months of the year. This action does not does not affect hunting use in the area, but is intended to make the area safer for hunters and the general public and to protect the vegetation and soils from damage during the fall/winter months when soils are often wet. These restrictions do not apply to emergency, law enforcement, and Federal, State or other government personnel who are in the area for official or emergency purposes and who are expressly authorized or otherwise officially approved by BLM. Any person who fails to comply with this closure order may be subject to the penalties provided by 43 CFR 8340.0–7 and/or 43 CFR 8360.0–7 which includes fines not to exceed $1000 and/or imprisonment not to exceed 12 months. Notice of this closure will be posted near or within the area, the San Luis Resource Area Office and the Canon City District Office.

DATES: Closure dates will be October 8, 1998 thru November 8, 1998 and October 7, 1999 thru November 7, 1999,

and shall remain in effect unless revised, revoked, or amended.

ADDRESSES: Comments can be directed to the Area Manager, San Luis Resource Area, 1921 State Street., Alamosa, CO 81101 or District Manager, Bureau of Land Management, Canon City, CO 81212.

FOR FURTHER INFORMATION CONTACT: Carlos Pinto, Area Manager at (719) 589–4975 or Jerry Apker, Colorado Division of Wildlife at 719–852–4783.

Stuart L. Freer,

Associate District Manager.

[FR Doc. 98–26981 Filed 10–7–98; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–1220–00]

Sonoma-Gerlach and Paradise Denio Management Framework Plan Amendment and Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is given that the Winnemucca Field Office of the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement on the management of the West Arm of the Black Rock Desert, located in Humboldt, Pershing and Washoe Counties, Nevada. This document is available for public review for a 105-day period.

DATES AND ADDRESSES: Written comments on the Draft Environmental Impact Statement must be postmarked by January 15, 1999.

Public meetings to receive oral and written comments have been scheduled for the dates and places listed below. All meetings will begin at 7:00 p.m.

November 2, 1998
Red Lion Inn, 1401 Arden Way, Sacramento, California
November 3, 1998
Nevada State Office, 1340 Financial Blvd., Reno, Nevada
November 4, 1998
Lovelock Community Center, 820 6th Street, Lovelock, Nevada
November 5, 1998
Winnemucca Field Office, 5100 E. Winnemucca Blvd., Winnemucca, Nevada
November 9, 1998
Cedarville Field Office, 602 Cressler Street, Cedarville, California
November 10, 1998
Gerlach Community Center, 410 Cottonwood, Gerlach, Nevada

A copy of the Draft Environmental Impact Statement can be obtained from: Bureau of Land Management, Winnemucca Field Office, ATTN: Gerald Moritz, Project Manager, 5100 E. Winnemucca Boulevard, Winnemucca, Nevada 89445.

The Draft Environmental Impact Statement is available for inspection at the following additional locations: Bureau of Land Management, Nevada State Office, 1340 Financial Blvd., Reno, Nevada: Humboldt County Library, Winnemucca, Nevada: Pershing County Public Library, Lovelock, Nevada: Washoe County Public Library, Reno, Nevada: Washoe County Branch Library, Gerlach, Nevada: Susanville Library District, Susanville, California: University of Nevada Library in Reno, Nevada: and the Sacramento City College Library, Sacramento. In addition, the entire document is available on the World Wide Web at the following addresses: www.nv.blm.gov/Winnemucca/BlackrockEIS.htm

FOR FURTHER INFORMATION CONTACT: Gerald Moritz, Project Manager at the above Winnemucca Field Office Address or telephone (702) 623–1500.

SUPPLEMENTARY INFORMATION: The Draft Environmental Impact Statement (EIS) sets forth the management prescription the Bureau of Land Management is proposing for the management of the Black Rock Desert. The proposed planning area encompasses portions of the West Arm of the Black Rock Desert in northwest Nevada and comprises approximately 452,086 acres of public lands administered by the Winnemucca Field Office within Humboldt, Pershing and Washoe Counties, Nevada.

Besides the Proposed Action and No Action Alternatives, the EIS also analyzes a Maximum Resource Protection Alternative and a Maximum Resource Use Alternative.

Dated: September 29, 1998.

Michael R. Holbert,

Acting Field Manager.

[FR Doc. 98–27010 Filed 10–7–98; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–1020–00; GP9–0001]

Notice of Meeting of John Day-Snake Resource Advisory Council

AGENCY: Bureau of Land Management, Prineville District Office.

ACTION: Meeting of John Day-Snake Resource Advisory Council: Pendleton, Oregon; November 18 and 19, 1998.

SUMMARY: A meeting of the John Day-Snake Resource Advisory Council will be held on November 18 from 10:00 a.m. to 5:00 p.m. and on November 19 from 8:00 a.m. to 3:00 p.m. at the Doubletree Inn, 304 SE Nye Avenue, Pendleton, Oregon. The meeting is open to the public. Public comments will be received at 1:00 p.m. on November 18. Topics to be discussed by the Council will include: John Day River Plan and Hells Canyon NRA subgroup updates; threatened and endangered species effects on public land grazing; fire rehabilitation on the Umatilla and Malheur National Forest; RAC involvement in forest plan and BLM RMP updates; ICBEMP update; fee demonstration discussion; RAC boundary adjustment and future program of work.

FOR FURTHER INFORMATION CONTACT: James L. Hancock, Bureau of Land Management, Prineville District Office, 3050 NE Third Street, P.O. Box 550, Prineville, Oregon 97754, or call 541–416–6700.

Dated: October 2, 1998.

James L. Hancock,

District Manager.

[FR Doc. 98–27007 Filed 10–7–98; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–923–1990–00]

Notice of Intent To Prepare Fire Management Plan and Amend Resource Management Plans and Management Framework Plans Where Appropriate in Montana and the Dakotas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) will update and amend its Fire Management Plans for Montana and the Dakotas. This may also result in Resource Management Plan (RMP) and Management Framework Plan (MFP) amendments. An environmental analysis of the Fire Management Plan updates will involve an RMP/MFP consistency review. If the fire plan updates are inconsistent with the existing RMPs and MFP, then RMP/MFP amendments may be appropriate for the Garnet, Headwaters, West Hi-Line, Judith, Valley, Phillips, Billings,

Big Dry, and Powder River RMPs in Montana; the Dillon MFP in Montana; the North Dakota RMP; and the South Dakota RMP. The fire plan update will help guide future management decisions concerning fire management objectives, wildland fire suppression and rehabilitation, the use of prescribed fire and other fuel management techniques.

DATES: Comments and issues should be submitted by November 30, 1998. The EA is scheduled for release to the public in late 1998 or early 1999.

ADDRESSES: Address all comments concerning this notice to John Thompson, Project Manager, P.O. Box 36800, Billings, MT 59107.

FOR FURTHER INFORMATION CONTACT: John Thompson, 406–255–2852.

SUPPLEMENTARY INFORMATION: The BLM has fire protection responsibility on more than 8 million acres of public land in Montana and the Dakotas. By agreement, the BLM also protects more than 600,000 acres of other federal and state agency lands in eastern Montana while other federal and state agencies protect 1.7 million acres of public lands for the BLM in western Montana. Over the 10-year period between 1987 and 1996, the BLM responded to over 1,500 wildland fires for which BLM had fire protection responsibility. Over 265,000 acres were burned and the fires averaged 176 acres. The largest fire burned an estimated 58,300 acres.

The Fire Management Plans are being updated to comply with the Federal Wildland Fire Management Policy and Program Review, reduce the risk and cost of severe wildland fires, and ensure the ecological health and function of grasslands and forest ecosystems that are fire dependent. As part of these fire plan updates, the BLM will carefully analyze resource objectives, fire management objectives, appropriate response to wildland fires based on consideration of firefighter and public safety, threats to private property, anticipated suppression costs, resource values at risk, resource benefits, and political and social concerns. An environmental analysis will address how fire can be used to help achieve resource objectives identified in land use plans and to reduce dangerous accumulations of fuel especially near populated areas. Where appropriate, the BLM will amend existing RMPs to be consistent with current fire management policy and to better achieve priority resource management objectives.

Dated: October 1, 1998.

John E. Moorhouse,

Acting Deputy State Director, Division of Resources.

[FR Doc. 98–27015 Filed 10–7–98; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–950–5700–77; AZA–30355]

Notice of Public Meeting; Proposed Withdrawal at Roosevelt Lake; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces the time and place for an open house to provide an opportunity for public involvement regarding the Bureau of Reclamation's application to withdraw 9,880 acres of National Forest System lands. The withdrawal is requested to protect the public from rising water levels due to the operation of the recently raised Theodore Roosevelt Dam, and to protect Reclamation's investment in the associated recreational developments at Roosevelt Lake. This notice also establishes an additional written comment period to allow people to present their views after attending the open house.

DATES: Written comments will be accepted November 17, 1998 to December 3, 1998.

ADDRESSES: Comments should be sent to the Phoenix Area Manager, Bureau of Reclamation, P.O. Box 81169, Phoenix, Arizona 85069.

FOR FURTHER INFORMATION CONTACT: Larry Koontz, BOR Phoenix Area Office, 602–216–3852.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Withdrawal and Opportunity for Public Meeting was published in the **Federal Register** issue of December 3, 1997, Vol. 62, No. 232, page 63957. The notice required comments to be submitted on or before March 3, 1998 and stated that a public meeting would be held at a later date.

Notice is hereby given that an open house will be held on November 17, 1998. The open house will be held at the Bureau of Reclamation, Phoenix Area Office, located in the Concord Commerce Center, Suite 100. The Concord Commerce Center is located at 2222 West Dunlap Avenue, Phoenix, Arizona. The open house will be held from 6 p.m. to 9 p.m. The public will be able to view the reservoir maps, gather information, and ask questions.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing, during the dates specified above, to the Phoenix Area Manager of the Bureau of Reclamation.

Dated: September 29, 1998.

Phillip D. Moreland,

Acting Deputy State Director, Resources Division.

[FR Doc. 98–27006 Filed 10–7–98; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Report to Congress: Operations of Glen Canyon Dam Pursuant to the Grand Canyon Protection Act of 1992 (Water Year 1997–1998)

AGENCY: Bureau of Reclamation, Interior.

ACTION: Transmittal of Report to Congress and the Governors of the Colorado River Basin States.

SUMMARY: This **Federal Register** notice announces the transmittal of the Report to Congress: Operations of Glen Canyon Dam Pursuant to the Grand Canyon Protection Act of 1992 (Water Year 1997–1998) by the Secretary of the Interior in addition to the Governors of the Colorado River Basin States.

SUPPLEMENTARY INFORMATION: In October 1992, the President of the United States signed into law the Reclamation Projects and Authorization and Adjustment Act (Pub. L. 102–575) containing Title XVIII–Grand Canyon Protection (GCPA). Section 1804(c)(2) of the GCPA reads as follows:

* * * the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report, separate from and in addition to the report specified in section 602(b) of the Colorado River Basin Project Act of 1968 on the preceding year and the projected year operations undertaken pursuant to this Act.

The Report to Congress: Operations of Glen Canyon Dam Pursuant to the Grand Canyon Protection Act of 1992 (Water Year 1997–1998) contains background and history, 1997 and 1998 operations plans, and adaptive management activities for Glen Canyon Dam. The Record of Decision for the Environmental Impact Statement on the Operation of Glen Canyon Dam called for establishing an Adaptive Management Program (AMP) containing four elements: an Adaptive Management Work Group, a Technical Work Group, a Monitoring and Research Center, and

Independent Science Review Groups. These entities work together to provide the Secretary of the Interior with recommendations on how to operate Glen Canyon Dam now and in the future. Preparation of this report included the review and comments of the AMP entities, with the exception of the Independent Science Review Groups, which have yet to be formed.

By adopting the Report to Congress: Operations of Glen Canyon Dam Pursuant to the Grand Canyon Protection Act of 1992 (Water Year 1997–1998) and its Appendices, the Secretary of the Interior is adopting the Annual Plan of Operations for Water Year 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Magnussen, Bureau of Reclamation, 1849 C Street, Washington, DC 20240, telephone: 202–208–4081, or on the Bureau of Reclamation's and Grand Canyon Monitoring and Research Center's WEB pages at http://www.uc.usbr.gov and http://www.usbr.gov/gces/, respectively.

Dated: October 1, 1998.

Bruce Babbitt,

Secretary, Department of the Interior.

[FR Doc. 98–27053 Filed 10–7–98; 8:45 am]

BILLING CODE 4310–94–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Draft guidelines for Title II Development Program Proposals; Notice

Pursuant to the Agricultural Market and Transition Act of 1996 (Public Law 480, as amended), notice is hereby given that the Draft Guidelines for Fiscal Year 1998 Results Reports and the Draft Guidelines for Fiscal Year 2000 Title II Development Programs are being made available to interested parties for the required thirty (30) day comment period.

Individuals who wish to receive a copy of these draft guidelines should contact: Office of Food for Peace, Agency for International Development, RRB 7.06–120, 1300 Pennsylvania Avenue, Washington, DC 20523–0809. Contact person: Gwen Johnson, (202) 712–0664. Individuals who have questions or comments on the draft guidelines should contact David R. Nelson at (202) 712–1828.

the thirty day comment period will begin on the date that this announcement is published in the **Federal Register.**

Dated: September 30, 1998.

Jeanne Markunas,

Acting Director, Office of Food for Peace, Bureau for Humanitarian Response.

[FR Doc. 98–26926 Filed 10–7–98; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–385 and 731–TA–809–810 (Preliminary)]

Live Cattle From Canada and Mexico

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty and antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty investigation No. 701–TA–385 (Preliminary) and antidumping investigations Nos. 731–TA–809–810 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of live cattle that are alleged to be subsidized by the Government of Canada, and imports from Canada and Mexico of live cattle that are alleged to be sold in the United States at less than fair value.[1] Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 19 U.S.C. 1673a(c)(1)(B)), the Commission must reach preliminary determinations in these investigations in 45 days, or in this case by November 16, 1998. The Commission's views are due at the Department of Commerce within five business days thereafter, or by November 23, 1998.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on October 1, 1998, by the Ranchers-Cattlemen Action Legal Foundation (''R-Calf'') (Columbus, MT).

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in these investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested

[1] The products covered by these investigations are live bovine animals, other than breeding animals and cows imported specially for dairy purposes. Included are calves and cattle imported for slaughter, as well as calves and feeder cattle imported for feeding on feedlots or rangelands prior to slaughter. Cull cows and bulls from diary operations, imported for slaughter for the production of beef, also are included. The petition covers all breeds of live beef calves and cattle without regard to age or weight. Live cattle for further feeding or slaughter for the purpose of producing beef are included in subheading 0102.90.40 of the Harmonized Tariff Schedule of the United States.

parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on October 22, 1998, at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. Parties wishing to participate in the conference should contact Elizabeth Haines (202–205–3200) not later than October 20, 1998, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 27, 1998, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: October 2, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–27022 Filed 10–7–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree

Notice is hereby given that on September 16, 1998, a proposed Third Partial Consent Decree in *United States* v. *Findett Corporation, et al.* No. 4:97CV01557CDP (E.D. Mo.) was filed with the United States District Court for the Eastern District of Missouri. The action was filed on July 25, 1997 under Section 107 of CERCLA, 42 U.S.C. 9607, to recover response costs incurred or to be incurred by the United States associated with Findett/Hayford Bridge Road Site in St. Charles, Missouri.

Under the terms of the proposed Decree, Milton Tegethoff will pay a total of $350,000 to the Superfund, exclusively for past United States response costs. The first and second Partial Consent Decrees pending before the Court provides for the payment of an additional $2,167,076. The United States' outstanding past costs were estimated at approximately $3.2 million as of March 31, 1998.

The Third Partial Consent Decree may be examined at the Office of the United States Attorney, U.S. Court & Custom House, 1114 Market Street, Room 401, St. Louis, MO 63101; the Region VII Office of the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101; and at the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, DC 20005, (202) 624–0892. A copy may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication comments relating to the proposed Partial Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530, and should refer to *United States* v. *Findett Corporation, et al.*, DOJ Ref. #90–11–2–417A.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section.

[FR Doc. 98–26978 Filed 10–7–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended

Notice is hereby given that on September 22, 1998, a proposed consent decree in *United States* v. *Charles B. Foushee, Jr., et al.*, Civil Action No. 5:98CV124–MCK, was lodged with the United States District Court for the Western District of North Carolina.

In this action, the United States sought reimbursement of response costs under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, pertaining to the Caldwell Systems Site in Caldwell County, North Carolina. The United States alleged that two defendants, Caldwell Systems, Inc. and Charles B. Foushee, Jr., operated a facility that treated, stored, and disposed of hazardous substances at the Site. The United States also alleged that a third defendant, Caldwell Industrial services, transported hazardous substances to the Site for incineration and disposal. In the settlement, the defendants agree jointly and severally to pay the United States $141,500, an amount based on their ability to pay in settlement of the civil claims alleged in the complaint.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Charles B. Foushee. Jr., et al.*, D.J. Ref. 90–11–2–615/1.

The consent decree may be examined at the Office of the United States Attorney, Suite 1700, Carillon Building, 227 West Trade Street, Charlotte, North Carolina, at U.S. EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, Georgia, and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the consent decree may be obtained in person or by mail

from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005.

When requesting a copy, please enclose a check in the amount of $7.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–26977 Filed 10–7–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Machnik Bros., Inc.,* Civil No. 3:98–CV–1828 (D. Conn.), was lodged with the United States District Court for the District of Connecticut on September 15, 1998. The proposed Decree concerns alleged violations of sections 301(a) and 404 of the Clean Water Act, 33 U.S.C. 1311(a) and 1344, resulting from Defendant's unauthorized discharge of approximately 190 cubic yards of dredged material into Niantic Bay, Niantic, Connecticut. The Defendant was hired by the Niantic Bay Yacht Club to perform maintenance dredging the Niantic Bay pursuant to permit issued by the Corps of Engineers, but violated the conditions of the permit by disposing of the dredged material in the Bay instead of at an authorized upland location.

The proposed Consent Decree would require the payment of a civil penalty and would permanently enjoin the Defendant from future violations of the Clean Water Act.

Ther U.S. Department of Justice will receive written comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of publication of this notice. Comments should be addressed to Sharon E. Jaffe, Assistant United States Attorney, District of Connecticut, 915 Lafayette Blvd., Room 309, Bridgeport, CT 06604, and should refer to *United States* v. *Machnik Bros., Inc.,* Civil No. 3:98–CV–1828 (D. Conn.).

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of Connecticut, 450 Main Street, Hartford, CT 06103.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, United States Department of Justice.

[FR Doc. 98–26980 Filed 10–7–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of First Amendment to Modify Consent Decree Under Clean Air Act

Notice is hereby given that a proposed First Amendment To Modify Consent Decree in *United States* v. *USS/KOBE Steel Company,* Case No. 1:92CV1928, was lodged on *September 25, 1998* with the United States District Court for the Northern District of Ohio. The proposed First Amendment modifies a consent decree that was entered by the district court on November 23, 1992, in an action brought under the Clean Air Act.

The proposed First Amendment To Modify Consent Decree requires the defendant to pay a stipulated penalty in the amount of $440,000 and modifies some of the injunctive relief provided for in the original consent decree that was entered in 1992 by adding continuous emission monitoring, an interim CO limit, and significantly increased stipulated penalties.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating the proposed First Amendment To Modify Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States* v. *USS/KOBE Steel Company,* Case No. 1:92CV1928, D.J. Ref. 90–5–2–1–1714A.

The proposed First Amendment To Modify Consent Decree may be examined at any of the following offices: (1) the United States Attorney for the Northern District of Ohio, 1800 Bank One Center, 600 Superior Avenue, East, Cleveland, Ohio 44114–2600 (contact Assistant U.S. Attorney Arthur I. Harris); (2) the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Assistant Regional Counsel Debra Klassman); and (3) at the Consent Decree Library, 1120 G Street, N.W., Third Floor, Washington, D.C. 20005, (202) 624–0892. Copies of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., Third Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $5.75 (25 cents per page reproduction charge) payable to Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–26979 Filed 10–7–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America vs. Aluminum Company of America and Alumax Inc.; Public Comments and Plaintiff's Response

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that the Public Comments and Plaintiff's Response have been filed with the United States District Court of the District of Columbia in United States v. Aluminum Company of America and Alumax, Inc., Civ. Action No. 9801497 (PLF).

On June 15, 1998, the United States filed a civil antitrust Complaint alleging that the proposed acquisition of Alumax Inc. (''Alumax'') by Aluminum Company of America (''Alcoa'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleged that Alumax and Alcoa are the two largest of the three producers of aluminum cast plate (''cast plate'') in the world. Alcoa's proposed acquisition of Alumax would have combined under single ownership almost 90% of the cast plate manufacturing business in the world. As a result, the proposed acquisition would substantially lessen competition in the manufacture and sale of cast plate world wide in violation of Section 7 of the Clayton Act.

Public comment was invited within the statutory 60-day comment period. The one comment received, and the response thereto, is hereby published in the **Federal Register** and filed with the Court. Copies of these materials may be obtained on request and payment of a copying fee.

Constance K. Robinson,

Director of Operations, Antitrust Division.

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h) (''Tunney Act''), the United States hereby responds to the single public comment received regarding the proposed Final Judgment in this case.

I

Background

On June 15, 1998, the United States Department of Justice (''the Department'') filed the Complaint in this matter. The Compliant alleges that the proposed acquisition of Alumax Inc. (''Alumax'') by Aluminum Company of America (''Alcoa'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that Alumax and Alcoa are the two largest of the three producers of aluminum cast plate (''cast plate'') in the world. Alcoa's proposed acquisition of Alumax would have combined under single ownership almost 90% of the cast plate manufacturing business in the world. As a result, the proposed acquisition would substantially lessen competition in the manufacture and sale of cast plate world wide in violation of Section 7 of the Clayton Act. 15 U.S.C. 18.

Simultaneously with the filing of the Complaint, the plaintiff filed the proposed Final Judgment and a Stipulation signed by all the parties that allows for entry of the Final Judgment following compliance with the Tunney Act. A Competitive Impact Statement (''CIS'') was also filed, and subsequently published in the **Federal Register** on July 1, 1998. The CIS explains in detail the provisions of the proposed Final Judgment, the nature and purposes of these proceedings, and the transaction giving rise to the alleged violation.

As the Complaint and the CIS explained, the merger as originally proposed was likely to reduce or eliminate competition between Alcoa and Alumax in the worldwide market for production and sale of aluminum cast plate (''cast plate''). Alcoa and Alumax are the two largest of three firms that compete in this market. The proposed Final Judgment is intended to prevent the expected lessening of competition the merger could cause in that market.

As a remedy to competitive harm in the cast plate market, the Department and Alcoa and Alumax agreed to a divestiture of Alcoa's division that manufactures and sells cast plate. This divestiture is intended to protect consumers by ensuring continued vigorous competition among three firms in the market.

The 60-day comment period for public comments expired on August 30, 1998. As of September 11, 1998, plaintiff had received comments from one person.[1] The comment came from General Motors Corporation (''General Motors''), a self-described worldwide consumer of aluminum products.

II

Response to the Public Comment

General Motors believes that the Department's decision to allow the Alcoa/Alumax transaction to go forward subject only to the divestiture of Alcoa's cast plate division was based on an overly narrow view of competition. General Motors believes that the Department should have challenged the transaction's competitive impact on a product market it calls ''integrated aluminum production,'' *i.e.*, all aspects of Alcoa and Alumax's aluminum businesses, including mining, refining, smelting, hot rolling, cold rolling, extruding, forging, casting and other processes. General Motors claims that Alcoa now owns, as a result of its acquisition of Alumax, a dominant share of the assets used for integrated aluminum production all around the world. General Motors is concerned that consumers will suffer at the hands of Alcoa's dominance, which will not be curbed by the other worldwide aluminum producers.

The Department of Justice Antitrust Division's review of mergers is governed by the Clayton and Sherman Acts, judicial precedent, and the Horizontal Merger Guidelines issued jointly by the Department and the Federal Trade Commission in 1992 (and slightly revised in 1997). The first step is defining a relevant product and geographic market. In its investigation into the many different aspects of the two companies' aluminum businesses, the Department determined that what General Motors calls integrated aluminum production actually consists of numerous separate product markets with varying geographic dimensions—some are local, some are worldwide. The Department then assessed the competitive implications of the loss of an independent Alumax in those markets in which the merging firms actually compete with each other. After a thorough investigation, the Department determined that the only product market adversely affected by the proposed acquisition was the worldwide manufacture and sale of cast plate. Accordingly, the Department brought its case on that basis, and obtained as relief a divestiture designed to remedy the competitive harm posed by the proposed acquisition in that market.

III

The Legal Standard Governing the Court's Public Interest Determination

Once the United States moves for entry of the proposed Final Judgment, the Tunney Act directs the Court to determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e). In making that determination, the ''court's function is not to determine whether the resulting array of rights and liabilities is one that will best serve society, but only to confirm that the resulting settlement is within the reaches of the public interest.'' *United States* v. *Western Elec. Co.*, 993 F.2d at 1576.[2] The Court should evaluate the relief set forth in the proposed Final Judgment and should enter the Judgment if it falls within the government's ''rather broad discretion to settle with the defendant within the reaches of the public interest.'' Microsoft, 56 F.3d at 1461; accord *United States* v. *Associated Milk Producers*, 534 F.2d 113, 117–18 (8th Cir. 1976), cert. denied, 429 U.S. 940 (1976).

Because it argues for a different case than the one that the Department brought, and does not address the relief ordered by the proposed Final Judgment, General Motors' comment raises issues not relevant to this Tunney Act proceeding. The Tunney Act does not contemplate a judicial reevaluation of the government's determination of which violations to allege in the Complaint. The government's decision not to bring a particular case based on the facts and law before it at a particular time, like any other decision not to prosecute, ''involves a complicated balancing of a number of factors which are peculiarly within [the government's] expertise.'' *Heckler* v. *Chaney*, 470 U.S. 821, 831 (1985). Thus, the Court may not look beyond the Complaint ''to evaluate claims that the government did not make and to inquire as to why they were not made.'' *United States* v. *Microsoft*, 56 F.3d 1448, 1459 (D.C. Cir. 1995); see also Milk Producers, 534 F.3d at 117–18.

Simarily, the government has wide discretion within the reaches of the public interest to resolve potential litigation. E.G., *Western Elec.*, 993 F.2d at 1577; AT&T, 552 F. Supp. at 1521. The Supreme Court has recognized that a government antitrust consent decree is

[1] The comment is attached. The Department plans to publish promptly the comment and this response in the **Federal Register**. The Department will provide the Court with a certificate of compliance with the requirements of the Tunney Act and file a motion for entry of final judgment once publication takes place.

[2] The Western Electric decision concerned a consensual modification of an existing antitrust decree. The Court of Appeals assumed that the Tunney Act was applicable.

a contract between the parties to settle their disputes and differences, *United States* v. *ITT Continental Baking Co.,* 420 U.S. 223, 235–38 (1975); *United States* v. *ITT Continental Baking Co.,* 420 U.S. 223, 235–38 (1975); *United States* v. *Armour & Co.,* 402 U.S. 673, 681–82 (1971), ''and normally embodies a compromise; in exchange for the saving of cost and elimination of risk, the parties each give up something they might have won had they proceeded with the litigation.'' Armour, 402 U.S. at 681. This Judgment has the virtue of bringing the public certain benefits and protection without the uncertainty and expense of protracted litigation. *Id; Microsoft,* 56 F.3d at 1459.

Finally, the entry of a governmental antitrust decree forecloses no private party from seeking and obtaining approriate antitrust remedies. Thus, defendants will remain liable for any illegal acts, and any private party may challenge such conduct if and when appropriate. If the commenting party has a basis for suing the defendants, it may do so. The legal precedent discussed above holds that the scope of a Tunney Act proceeding is limited to whether entry of this particular proposed Final Judgment, agree to by the parties as settlement of this case, is in the public interest.

IV

Conclusion

After careful consideration of the comment, the plaintiff concludes that entry of the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violation alleged in the Complaint and is in the public interest. The Plaintiff has moved the Court to enter the proposed Final Judgment after the public comment and this Response has been published in the **Federal Register**, as 15 U.S.C. 16(d) requires.

Dated this 22nd day of September, 1998.

Respectfully submitted,

Nina B. Hale,

Andrew K. Rosa,

U.S. Department of Agriculture, Antitrust Division, 325 7th Street, NW, suite 500, Washington, DC 20530, (202) 307–6351.

Certificate of Service

I, Mary Ethel Kabisch, hereby certify that, on September 22, 1998, I caused the foregoing document to be served on defendants Alumax Inc. and Aluminum Company of America by having a copy mailed, first-class, postage prepaid, to:

David Gelfand,

Cleary, Gottlieb, Steen & Hamilton, 2000 Pennsylvania Avenue, NW., Suite 9000, Washington, DC 20006–1801

D. Stuart Meiklejohn,

Sullivan & Cromwell, 125 Broad Street, 28th floor, New York, New York 10004–2498

Mary Ethel Kabisch

Statement of General Motors Corporation

General Motors Corporation (''GM''), speaking as a major worldwide consumer of aluminum products in many and varied alloys, shapes and forms would like to express its disappointment in the decision by the Antitrust Division of the U.S. Department of Justice to allow the Alcoa/Alumax transaction to proceed with only minimal divestitures as outlined in the **Federal Register** notice published on July 1, 1998 at 63 FR 35946. The investigation and conclusions reached seemed to have focused on the pieces while ignoring the whole. It seems misguided and harmful to the aluminum consumer to simply evaluate the micro picture of certain aluminum industry products without considering the macro picture of aluminum production and how one producer, through asset control, can have undue influence on this overall market.

Integrated aluminum production is an extremely capital intensive process. This process includes mining, refining, smelting, hot rolling, cold rolling, extruding, forging and other processes. Alcoa today clearly dominates the mining of bauxite and refining of aluminum. With the purchase of Alumax, Alcoa adds significant smelting, hot line, cold mill, and extrusion assets to their already very impressive asset portfolio. Conversely, with the downsizing of two major global competitors such as Reynolds most recently and Kaiser several years ago, the Big Four in aluminum is quickly becoming the Big One (Alcoa) and the Smaller One (Alcan). Further, Alcoa's purchase of Alumax on the heels of their acquisition of government controlled facilities in Spain, Italy and Hungary accentuates their position of global dominance in every major aluminum producing area of the world.

Our concern is the same concern that every aluminum consumer should consider: Too many critical assets controlled by one producer, the same producer instrumental in the April, 1994 Memorandum of Understanding. All aluminum consumers must remember the MOU, a systematic global scheme to cut production that resulted in 100% price increases in primary aluminum within nine short months of the agreement.

GM recognizes that industry consolidation and corporate integration are not always bad for the consumer. They can lead to reduced costs and efficiencies that benefit the consumer in the form of lower prices. The consumer realizes those lower prices, however, provided there is still adequate current competition or the probability of new entry. Unfortunately, the cost of entry for integrated aluminum production is staggering. History taught us that lesson many years ago as Alcoa reigned supreme as one of the last and most successful corporate monopolies in North America.

Most importantly, GM sees no long-term benefits from this merger, either for itself or for the future customers of GM cars and trucks. Whether alone or through the joint research effort known as the Partnership for a New Generation of Vehicles, GM would like to continue to work closely with a fully competitive aluminum industry on increased usage of aluminum in our vehicles. This most recent glaring example of competitive base dilution appears deleterious to those efforts and will force GM to re-evaluate aluminum's role as a primary metal of choice in GM's future.

[FR Doc. 98–26976 Filed 10–7–98; 8:45 am]

BILLING CODE 4915–00–M

DEPARTMENT OF JUSTICE

National Institute of Justice

[OJP (NIJ)–1200]

RIN 1121–ZB36

Announcement of the Availability of the National Institute of Justice Solicitation for ''Juvenile 'Breaking the Cycle' Evaluation''

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of solicitation.

SUMMARY: Announcement of the availability of the National Institute of Justice ''SL000308.''

DATES: Due date for receipt of proposals is close of business Thursday, December 17, 1998.

ADDRESSES: National Institute of Justice, 810 Seventh Street, NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: For a copy of the solicitation, please call NCJRS 1–800–851–3420. For general

information about application procedures for solicitations, please call the U.S. Department of Justice Response Center 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Background

This solicitation calls for an evaluation of two Juvenile ''Breaking the Cycle'' (JBTC) sites supported by NIJ and the Office of National Drug Control Policy. JBTC is a research demonstration project designed by a consortium of Federal agencies to test the effectiveness of a system-wide juvenile justice intervention with drug-involved offenders. The goal of the project is to provide drug testing, drug treatment, graduated sanctions, and judicial supervision to each drug-involved defendant regardless of charge or detention status.

Applicants must outline an overall research strategy for two sites that includes a thorough process analysis and a comprehensive analysis of impact of the JBTC program on individual behavior and on system functioning.

This solicitation makes available $400,000 for the first stage of the multi-site evaluation and a total of up to $1.5 million will be available for the complete evaluation of the two JBTC sites. For each JBTC site NIJ plans to support a 9–12 month planning phase followed by two years of full program implementation. The JBTC evaluator is expected to enter the planning process at least 60 days prior to the first intake of eligible juveniles and will be required to work closely with NIJ staff, the BTC Program Board, and with staff at the two program sites.

Interested organizations should call the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to obtain a copy of ''Juvenile 'Breaking the Cycle' Evaluation'' (refer to document no. SL000308). For World Wide Web access, connect to either NIJ at http://www.ojp.usdoj.gov/nij/funding.htm, or the NCJRS Justice Information Center at http://www.ncjrs.org/fedgrant.htm#nij.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 98–27004 Filed 10–7–98; 8:45 am]

BILLING CODE 4410–18–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Small Disadvantaged Business Procurement; Reform of Affirmative Action in Federal Procurement

AGENCY: Office of Federal Procurement Policy (OFPP).

ACTION: Notice of definitions of regions used in price evaluation adjustments and benchmarking methodology.

SUMMARY: The Federal Acquisition Regulation (FAR), 48 CFR Part 19, contains regulations permitting eligible small disadvantaged businesses (SDB's) to receive price evaluation adjustments in Federal Procurement Programs. The FAR provides further that the Department of Commerce (DOC) will determine the price evaluations adjustments (percentages) by standard industrial classification (SIC) major groups and regions (if any). OMB published the DOC Notice of Determination Concerning the Price Evaluation Adjustment in the **Federal Register** on June 30, 1998 (63 FR 35714). The original DOC notice recommended price evaluation adjustments on a national basis for all SIC major groups except construction major groups 15, 16, and 17, which were on a regional basis. The original DOC notice did not include the list of states and outlying areas that comprise the regions (of which there are nine). The attached DOC memorandum supplements the original notice by listing the states and outlying areas for the nine regions.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Linda G. Williams, Deputy Associate Administrator, Office of Federal Procurement Policy, Telephone 202–395–3302. For further information on the Commerce regional definitions, contact Mr. Jeffrey Mayer, Director of Policy Development, Economics and Statistics Administration, U.S. Department of Commerce, Telephone, 202–482–1728.

SUPPLEMENTARY INFORMATION:

Definitions of Regions

OFPP gives notice that the attached Memorandum from the DOC supplements the original Commerce Notice of Determination Concerning Price Evaluation Adjustments by listing the states and outlying areas that comprise the nine regions.

Deidre A. Lee,

Administrator.

September 21, 1998.

Memorandum for Office of Federal Procurement Policy

From: Jeffrey L. Mayer, Director of Policy Development.

Subject: Definitions of Regions Used in Price Evaluation Adjustments and Benchmarking Methodology.

This memorandum supplements the Notice of Determination Concerning Price Evaluation Adjustments transmitted by the Department of Commerce (DOC) to the Office of Federal Procurement Policy and published in the Federal Register on June 30, 1998. In the Notice, recommendations specific to major industry groups (and combinations thereof) apply nation-wide for all industry groupings except the major construction industry groups (Standard Industrial Classification Major Industry Groups 15, 16, and 17). Recommendations in these three major groups apply regionally rather than nationally. Regional definitions are based on the nine multi-state Divisions used by the Bureau of the Census when it reports certain sub-national data. DOC augmented the Bureau's basic definitions for the Divisions by including Guam in the Pacific Region and Puerto Rico and the Virgin Islands in the South Atlantic Region. This memorandum provides a complete list of the states and outlying areas that comprise each of the nine regions used by DOC.

East North Central: Illinois, Indiana, Michigan, Ohio, Wisconsin

East South Central: Alabama, Kentucky, Mississippi, Tennessee

Middle Atlantic: New Jersey, New York, Pennsylvania

Mountain: Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming

East England: Connecticut, Maine, Massachusetts, New Hampshire, Rode Island, Vermont

Pacific: Alaska, California, Guam, Hawaii, Oregon, Washington

South Atlantic: Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, Puerto Rico, South Carolina Virgin Islands, Virginia, West Virginia

West North Central: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota

West South Central: Arkansas, Louisiana, Oklahoma, Texas.

[FR Doc. 98–26931 Filed 10–7–98; 8:45 am]

BILLING CODE 3110–01–U

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–528, STN 50–529, and STN 50–530]

Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3; Notice of Partial Withdrawal of Application for Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted a request by Arizona Public Service Company (the licensee) to withdraw part of its June 13, 1995, application for amendments to Facility Operating License Nos. NPF–41, NPF–51, and NPF–74, issued to the licensee for operation of the Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, located in Maricopa County, Arizona. Notice of Consideration of Issuance of these amendments was published in the **Federal Register** on October 25, 1995 (60 FR 54715).

The portion of the licensee's amendment request which is being withdrawn is the revision of the Technical Specifications (TS) that would change the allowed outage times (AOT) for the low pressure safety injection systems and the emergency diesel generators.

Also, the licensee informed the staff that this portion of the amendment would be resubmitted at a later time. Thus, this portion of the amendment application is considered to be withdrawn by the licensee.

For further details with respect to this action, see (1) the application for amendment dated June 13, 1995, as supplemented by letters dated August 16, 1995, June 9, 1998, and September 6, 1998, and (2) the staff's letter dated October 2, 1998.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 2nd day of October 1998.

For the Nuclear Regulatory Commission.

Mel B. Fields,

Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–27039 Filed 10–7–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corporation, Crystal River Unit 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License Nos. DPR–72 issued to Florida Power Corporation, et al. (FPC or the licensee), for operation of the Crystal River plant, Unit 3, located in Citrus County, Florida.

Environmental Assessment

Identification of Proposed Action

The proposed action would exempt the licensee from the requirements of 10 CFR Part 50, Appendix K, Section I.D.1, ''Single Failure Criteria,'' which requires accident evaluation using the combination of Emergency Core Cooling System (ECCS) subsystems assumed to be operative ''* * * after the most damaging single failure of ECCS equipment has taken place.'' The proposed action would exempt the licensee from the single failure requirement for very low probability scenarios under certain circumstances. The exemption is limited to the systems required for the prevention of boron precipitation during the long term cooling phase of a loss of coolant accident. 10 CFR 50.46(b)(5) requires that the ECCS be capable of providing long-term core cooling. Post-accident boron precipitation is a potential, but unlikely, challenge to maintaining long-term core cooling.

The proposed action is in accordance with the licensee's application for exemption dated June 4, 1998. The staff, on its own initiative, proposed to extend the exemption to a potential single failure vulnerability not requested by the licensee in its application.

The Need for the Proposed Action

The purpose of 10 CFR Part 50, Appendix K, Section I.D.1, is to ensure that reasonable assurance exists that long-term core cooling will be maintained following a loss of coolant accident. The exemption is needed because, with the postulation of certain single failures, approved active methods for boron precipitation control (decay heat Dump-to-Sump and Auxiliary Pressurizer Spray) may not be available until decay heat levels had decreased during one postulated scenario and manual repair actions were completed for the other postulated scenario. In the event of the low probability sequence of events which could lead to these conditions, the conservatisms present in the calculations that validate the active methods, and the timely actions FPC would take to restore an active mitigation method, assure adequate long-term core cooling is maintained. Therefore, the requirements of 10 CFR Part 50, Appendix K, Section I.D.1 are not necessary to provide reasonable assurance of long-term core cooling after a loss of coolant accident for the specific sequence of events covered by the licensee's exemption request.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that in the event of a loss of coolant accident that requires long-term cooling, prevention of boron precipitation would be assured by the conservatisms in the calculations and assumptions and ability to affect repairs if necessary to restore boron precipitation mitigation systems. These conservatisms are included in the assumptions for the value of boron solubility, calculations of decay heat generation rate, and the amount of boron precipitation necessary to prevent adequate core cooling. In addition, in the unlikely event that repairs are necessary, procedural guidance for these actions has been prepared and will be required to be maintained as a condition of the exemption.

The proposed exemption will not result in an increase in the probability or consequences of accidents or result in a change in occupational or public dose since long-term core cooling would continue to be available if required. The amount of radioactive waste would not be changed by the proposed exemption. The proposed exemption would not affect the type or amount of radiological plant effluents nor cause any significant occupational exposures. Therefore, there are no significant radiological impacts associated with the proposed action.

The proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological

plant effluents and has no other radiological environmental impact. Therefore, the proposed exemption does not result in any significant nonradiological environmental impacts.

Accordingly, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed exemption, the staff considered denial of the requested exemption. Denial of the request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the ''Final Environmental Statement Related to the Proposed Crystal River Unit 3,'' dated May 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on August 13, 1998, the staff consulted with William Passetti, Chief, Department of Health, Bureau of Radiation Control, in Florida, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated June 4, 1998, which is available for public inspection at the Commission's Public Document Room, which is located at The Gelman Building, 2120 L Street, NW., Washington, D. C., and at the local public document room located at the Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

Dated at Rockville, Maryland, this 28th day of September 1998.

For the Nuclear Regulatory Commission.

Leonard A. Wiens,

Senior Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–27038 Filed 10–7–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia H. Paige, Staffing Reinvention Office, Employment Service (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on August 27, 1998 (62 FR 45879). Individual authorities established or revoked under Schedules A and B and established under Schedule C between August 1, 1998, and August 31, 1997, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

No Schedule A authorities were established during August 1998.

The following Schedule A authorities were revoked during August 1998:

Department of Treasury

Internal Revenue Service. Two positions of Senior Visiting Pension Actuary, GS–1510–14/15. Effective August 18, 1998.

Bureau of Government Financial Operations. Clerical positions at grades GS–5 and below established in Emergency Disbursing Offices to process emergency payments to victims of catastrophies or natural disasters requiring emergency disbursing services. Effective August 18, 1998.

Schedule B

No Schedule B authorities were established during August 1998.

The following Schedule B Authorities were revoked during August 1998:

Department of the Treasury

Not to exceed 10 positions engaged in functions mandated by public Law 99–190, the duties of which require expertise and knowledge gained as present or former employee of the Synthetic Fuel Corporation. Effective August 18, 1998.

Not to exceed to positions of Accountant (Tax Specialist) at grades GS–13 and above to serve as specialist on the accounting analysis and treatment of corporation taxes. Effective August 18, 1998.

Schedule C

The following Schedule C authorities were established during August 1998:

Commission on Civil Rights

Special Assistant to the Staff Director, Office of the Staff Director. Effective August 5, 1998.

Department of Agriculture

Confidential Assistant to the Special Assistant to the Secretary. Effective August 14, 1998.

Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective August 24, 1998.

Department of the Army (DOD)

Secretary (Office Automation) to the Assistant Secretary of the Army for Research and Development and Acquisition. Effective August 5, 1998.

Executive Assistant to the Secretary of the Army. Effective August 31, 1998.

Department of Commerce

Confidential Assistant to the Director of Planning and Scheduling. Effective August 4, 1998.

Special Assistant to the Assistant Secretary and Director General of the U.S. and Foreign Commercial Service, International Trade Administration. Effective August 10, 1998.

Confidential Assistant to the Director, Office of Business Liaison. Effective August 12, 1998.

Department of Defense

Special Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense. Effective August 13, 1998.

Personal and Confidential Assistant to the Principal Deputy Under Secretary of Defense for Acquisition and Technology. Effective August 18, 1998.

Department of Education

Confidential Assistant to the Special Advisor, Director America Reads Challenge. Effective August 14, 1998.

Department of Energy

Special Assistant to the Director, Office of Nonproliferation and National Security. Effective August 27, 1998.

Department of Health and Human Services

Associate Commissioner for Family and Youth Services to the Commissioner, Administration for Children and Youth Families. Effective August 14, 1998.

Deputy Director of Scheduling to the Director of Scheduling. Effective August 14, 1998.

Deputy Director of Scheduling to the Director of Scheduling. Effective August 14, 1998.

Department of Housing and Urban Development

Deputy Assistant Secretary for Public Affairs to the Assistant Secretary for Public Affairs. Effective August 24, 1998.

Director of Executive Services to the Assistant Secretary for Administration. Effective August 31, 1998.

Department of the Interior

Special Assistant for Scheduling to the Deputy Director for External Affairs. Effective August 6, 1998.

Special Assistant to the Director, Minerals Management Service. Effective August 19, 1998.

Department of Labor

Special Assistant to the Assistant Secretary, Pension Benefits and Welfare Administration. Effective August 5, 1998.

Special Assistant to the Assistant Secretary for Administration and Management. Effective August 5, 1998.

Special Assistant to the Secretary (Scheduling) to the Director of Scheduling and Advance. Effective August 10, 1998.

Confidential Assistant to the Executive Assistant to the Secretary. Effective August 27, 1998.

Department of State

Deputy Assistant Secretary to the Assistant Secretary, Bureau of Inter-American Affairs (Bureau of Western Affairs). Effective August 12, 1998.

Foreign Affairs Officer to the Under Secretary for Global Affairs. Effective August 31, 1998.

Staff Assistant to the Deputy Chief of Staff. Effective August 31, 1998.

Staff Assistant to the Under Secretary. Effective August 31, 1998.

Staff Assistant to the Deputy Assistant Secretary. Effective August 31, 1998.

Department of Transportation

Special Assistant to the Deputy Administrator, Maritime Administration. Effective August 14, 1998.

Department of the Treasury

Public Affairs Specialist to the Director of Public Affairs. Effective August 12, 1998.

Public Affairs Specialist to the Director, Office of Public Affairs. Effective August 14, 1998.

National Endowment for the Arts

Staff Assistant to the Chairman. Effective August 26, 1998.

Office of Management and Budget

Confidential Assitant to the Associate Director for National Security and International Affairs. Effective August 6, 1998.

Office of Personnel Management

Director of Media Relations/Press Secretary to the Director of Communications. Effective August 21, 1998.

Office of Science and Technology Policy

Confidential Assistant to the Associate Director for National Security and International Affairs. Effective August 26, 1998.

Overseas Private Investment Corporation

Special Assistant to the President and Chief Executive Officer. Effective August 14, 1998.

Securities and Exchange Commission

Secretary to the Director, Corporate Finance. Effective August 27, 1998.

Small Business Administration

Assistant General Counsel to the General Counsel. Effective August 12, 1998.

Senior Advisor to the Associate Deputy Administrator for GS/MED. Effective August 27, 1998.

U.S. International Trade Commission

Staff Assistant (Economics) to the Commissioner. Effective August 5, 1998.

Confidential Assistant to the Commissioner. Effective August 5, 1998.

Confidential Assistant to the Commissioner. Effective August 5, 1998.

Confidential Assistant to the Commissioner. Effective August 12, 1998.

United States Information Agency

Confidential Assistant to the Voice of America Director. Effective August 26, 1998.

United States Tax Court

Trial Clerk to the Judge. Effective August 5, 1998.

Trial Clerk to the Judge. Effective August 5, 1998.

Trial Clerk to the Judge. Effective August 10, 1998.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–27061 Filed 10–7–98; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Service, Washington, DC 20549

Extension: Rule 17a–3, SEC File No. 270–26, OMB Control No. 3235–0033

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 17a–3 [17 CFR 40.17a–3] under the Securities Exchange At of 1934 requires records to be made by certain exchange members, brokers, and dealers, to be used in monitoring compliance with the Commission's financial responsibility program and antifraud and antimanipulative rules as well as other rules and regulations of the Commission and the self-regulatory organizations. It is estimated that approximately 7,786 active broker-dealer respondents registered with the Commission incur an average burden of 1,938,714 hours per year to comply with this rule.

Rule 17a–3 does not contain record retention requirements. Compliance with the rule is mandatory. The required records are available only to the examination staff of the Commission and the self-regulatory organization of which the broker-dealer is a member. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be

directed to the following person: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to the Office of Management and Budget within 30 days of this notice.

Dated: October 1, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–26996 Filed 10–7–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40516; File No. SR–CHX–98–7]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendments No. 1, 2, and 3 to the Proposed Rule by the Chicago Stock Exchange, Inc. Regarding Maintenance Standards and Listing Requirements.

September 30, 1998.

I. Introduction

On March 18, 1998, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] In the filing, the CHX proposed rule amendments that would set forth listing and maintenance requirements for securities that are also listed on another primary market and modify the maintenance and delisting standards for securities listed on Tier II of the Exchange. Notice of the proposed rule change was published in the **Federal Register** on April 30, 1998.[3] No comments were received on the proposal. On June 15, 1998, the CHX submitted Amendment No. 1 to the proposed rule change.[4] Amendment No. 2 was subsequently filed on August 20, 1998.[5] A final amendment to the proposal was filed with the Commission on September 30, 1998.[6] This order approves the proposed rule change as amended. Amendments No. 1, 2, and 3 are herein approved on an accelerated basis.

II. Description of the Proposal

the Exchange proposes to amend CHX listing and maintenance requirements as set forth in Exchange Rules 14, 15, 16, 17 and 22 of Article XXVIII and the Interpretation and Policy .01 of Rule 2 of Article XXVIII. the proposed rule amendment relate to four general listing issues: (i) Tier II listing standards for stock warrants, (ii) listing application requirements for securities that are listed or approved for listing on certain other markets, (iii) delisting of a security for lack of sufficient trading volume, and (iv) the elimination of certain maintenance listing standards for securities currently listed on certain other markets.

A. Tier II Stock Warrants

The Exchange does not currently have maintenance standards for stock warrants listed on Tier II of the Exchange. The proposed rule change would revise Rule 22(b) under Article XXVIII to require that, in the case of Tier II stock warrants, the common stock of the company or other security underlying the stock warrants meets the applicable Tier II maintenance requirements. Similar requirements currently exist for stock warrants listed pursuant to the Exchange's Tier I listing standards, which in general are subject to quantitatively and qualitatively higher standard then Tier II listed securities.[7] By adopting the proposed maintenance standards for Tier II stock warrants, the rule change would permit the Exchange to delist stock warrants that do not have adequate backing of an underlying security.

B. Listing Application Requirements for Certain Securities Listed on Other Markets

Currently, the Exchange may list a security of an issuer that is listed or has been approved for listing on another primary market. The proposed rule change would add a new Interpretation .03 to Article XXVIII to state that if the Exchange chooses to list, under either Tier I or Tier II, a security listed or approved for listing, within the past twelve months, on the New York Stock Exchange (''NYSE''), the American Stock Exchange (''Amex''), except for Emerging Company Marketplace (''ECM'') securities,[8] or the Nasdaq National Market, the issuer shall not be required to fulfill all the requirements for an original listing application.

Specifically, the issuer shall be required to submit to the Exchange (1) a copy of the application for listing on the NYSE, Amex or Nasdaq National Market, together with all supporting materials, (2) a board resolution of the issuer authorizing listing on the Exchange, (3) the issuer's latest Form 10–K, most recent three Form 10–Qs, and most recent proxy statement (for non-IPOs), or the issuer's latest registration statement and exhibits (for IPOs), (4) the required listing fee, (5) an executed Exchange listing agreement, (6) evidence of approval for listing by the NYSE, Amex or Nasdaq National Market, (7) a specimen stock certificate, (8) the issuer's registration statement filed under the Act, and (9) a Letter of Reliance authorizing the Exchange to process the application and supporting materials in lieu of an original listing application. In addition to the nine enumerated items required for the alternative listing application, Amendment No. 1 to the proposal requires the issuer to submit to the Exchange any other information deemed appropriate by the Exchange is order to render a decision concerning listing eligibility.

Amendment No. 1 also revises the instructions for the preparation of an original listing application set forth in the Interpretation and Policy .01 of Rule 2 under Article XXVIII to delete the requirement that financial statements certified by independent public

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 39906 (April 23, 1998), 63 FR 23821.

[4] *See* Letter from Patricia Levy, Senior Vice President and General Counsel, CHX, to Sarrita Cypress, SEC, Division of Market Regulation, dated June 15, 1998. the terms of Amendment No. 1 to the proposal are discussed in Section II of this approval order.

[5] *See* Letter from Patricia Levy, Senior Vice President and General Counsel, CHX, to Sarrita Cypress, SEC, Division of Market Regulation, dated August 20, 1998. The terms of Amendment No. 2 to the proposal are discussed in Section II of this approval order.

[6] *See* Letter from Andre E. Owens, Schiff Hardin & Waite, to Sharon Lawson, Division of Market Regulation, dated September 30, 1998. The terms of Amendment No. 3 to the proposal are discussed in Section II of this approval order.

[7] *See* CHX Rule 17(a)(1) under Article XXVIII.

[8] The Amex has discontinued the listing of new companies on the ECM and eliminated ECM guidelines that allow for such new listings. Companies previously approved for trading on the Amex as ECM listed companies continue to trade on the Amex until they graduate to the Amex's main list by meeting the appropriate listing standards, or delist, either voluntarily or because they fail to meet the ECM listing standards. *See* Securities Exchange Act Release No. 36079 (August 9, 1995), 60 FR 42926 (August 17, 1995), approving the discontinuation of the ECM.

accounts be specifically addressed to the Exchange. This will in turn permit financial statements otherwise addressed to an issuer or another exchange to be used for purposes of preparing a CHX listing application.[9]

C. Delisting for Lack of Sufficient Volume or Other Factors Not in the Public Interest

Current Rule 22(c) of Article XXVIII provides that Tier II listed issues will normally be considered for delisting if the company fails to maintain a net worth which is the greater of 150% of the prior year's consolidated net loss of $500,000, or when the volume of trading declines to a level which will not support a listed market in the judgment of the Exchange and its Committee on Floor Procedure. According to the CHX, the proposed rule change would eliminate the specific reference to volume of trading as vague and unnecessary in light of the authority Rule 22(a) grants the Exchange to delist Tier II securities.[10]

To clarify the intended scope of authority presently granted in Rule 22(a), Amendment No. 1 to the proposed rule change revises Rule 22(a) to explicitly state that the Exchange may determine on an individual basis suitability for continued listing of an issue in light of all pertinent facts whenever it deems such action to be appropriate. The amendment further states that many factors may be considered in this connection, including, but not limited to, abnormally low selling prices or volume of trading. The reference to trading volume as a factor to be considered for continued listing of the CHX is thus specifically incorporated into the Exchange's general grant of authority for delisting Tier II securities. Finally, Amendment No. 1 revises Rule 22(a) to expressly state that the CHX has the authority to delist a security even though the security continues to be listed on the NYSE, Amex, or Nasdaq National Market.[11]

Amendment No. 2 to the proposal provides further clarification of the Exchange's authority to make an independent determination of the continued suitability of securities listed on the CHX as established in Amendment No. 1. Specifically, Amendment No. 2 deletes language from amended Rule 22(a) that could be interpreted to allow the Exchange to continue to list an issue that fails to meet CHX listing maintenance requirements.[12] This language was deleted from the proposal to prevent an improper conclusion that listing maintenance standards could be waived by the CHX. The Amendment thereby reiterates the affirmative obligation of the CHX to take appropriate action to suspend or delist securities that fail to meet CHX Tier II listing maintenance standards.

Maintenance Listing Standards

1. Amendments Regarding Securities Listed on Other Markets. Currently, Rules 14, 15, 16, 17, and 22 of Article XXVIII establish certain maintenance standards that Tier 1 and Tier II listed securities must meet in order to continue to be listed on the Exchange. As provided in the proposed rule change, if a security listed on the Exchange is also listed on the NYSE, Amex (except for ECM securities)[13] or Nasdaq National Market, it shall not be required to meet certain of the maintenance standards contained in the CHX rules, as long as the security continues to be listed and has not been suspended from trading on such other market.[14] According to the CHX, the adoption of the rule change will avoid a situation where the Exchange might be forced to delist a security that fails certain maintenance tests, when it continues to meet the maintenance requirements of one of the three aforementioned stock markets. Nevertheless, as discussed below, pursuant to Amendment No. 1, the CHX will retain independent authority to delist a security, even if it continues to be listed on the Amex, NYSE or Nasadq National Market.

To facilitate the CHX's efforts to independently determine if dually listed issuers meet CHX listing standards, when they fail to meet the standards of another market, Amendment No. 3 to the proposal revises Article XXVIII, Rule 21 to create a new rule, Rule 21(r). Rule 21(r) requires dually listed issuers to notify the CHX promptly if, during the time a CHX listed security is also listed on another market that the listed security has fallen below the continued listing requirements of such other market. Upon receipt of this notification, the CHX has stated that it will immediately conduct an independent review to determine if the issuer should continue to be listed on the CHX.[15]

As stated above, a CHX dually listed security that is delisted or suspended from trading on the NYSE Amex, or Nasdaq National Market would have to meet the CHX's maintenance standards in order to continue trading on the CHX. In the event that an issuer is suspended from trading on the NYSE, Amex, or Nasdaq National Market, the CHX will confirm that the issuer wishes to maintain its listing on the CHX. Thereafter, the CHX will make an independent determination as to whether the issuer continues to meet the relevant requirements for listing on the CHX. If the issuer does not meet the relevant requirements, or if the issuer does not desire to maintain its listing, the issue will be suspended from trading on the CHX immediately and the CHX will take all appropriate actions to delist the security.

Further clarification of the CHX's independent authority to take action with respect to dually listed securities is set forth in Amendment No. 1. specifically, the amendment confirms

---

[9] Interpretation and Policy .01 of Rule 2 was also amended to correct a typographical error and revise the numbering of the provisions contained therein.

[10] Currently, Rule 22(a) states that, ''[T]he Exchange reserves the right to delist securities of any corporation, subject to the Securities and Exchange Commission rules, which engages in practices not in the public interest or whose assets have been depleted to the extent that the company can no longer operate as a going concern, or whose securities have become so closely held that it is no longer feasible to maintain a reasonable market in the issue. Furthermore, the Exchange reserves the right to delist the securities of any corporation which has drastically changed its corporate structure and/or its type of operation.''

[11] See discussion *infra*, for a description of CHX rule revisions that allow an issuer to continue to be listed on the CHX by virtue of its listing on the Amex (except for ECM securities), NYSE or Nasdaq National Market.

[12] Amendment No. 1 states that, ''[T]he Exchange may also make an appraisal of, and determine on an individual basis, the suitability for continued listing of a issue in light of all pertinent facts whenever it deems such action appropriate, even though a security meets or fails to meet enumerated criteria * * *'' (Emphasis added). Amendment No. 2 deletes the language ''fails to meet'' from this provision.

[13] See note 8 *supra*.

[14] The proposal would exempt from the Exchange's quantitative maintenance standards securities that are also listed on the NYSE, Amex, or Nasdaq National Market. The quantitative maintenance standards govern, for example, net tangible assets, the number of public beneficial shareholders, and the market value of an issuer's shares publicly held. *See* Article XXVIII, Rule 14, Tier I Maintenance Requirements for Common Stock; Rule 15, Tier I Maintenance Requirements for Preferred Stock; Rule 16, Tier I Maintenance Requirements for Bonds and Debentures; Rule 17, Tier I Maintenance Requirements for Stock Warrants and Contingent Value Rights; and Rule 22, Tier II Maintenance Standards. The Commission notes that the proposed rule change would not provide an exemption from the Exchange's corporate governance and disclosure requirements for securities that maintain a listing on the CHX and are otherwise listed on the NYSE, Amex, or Nasdaq National Market. *See,* Article XXVIII, Rule 19, Tier I Corporate Governance and Disclosure Standards; Rule 20, Tier I Voting Rights; and Rule 21, Tier II Corporate Governance, Disclosure and Miscellaneous Requirements.

[15] Telephone conversation between Patricia Levy, Senior Vice President and General Counsel, CHX, with Sharon Lawson and Sarrita Cypress, SEC, Division of Market Regulation, September 28, 1998.

the Exchange's independent authority, pursuant to Article XXVIII, Rule 3 to suspend any security from dealings when the NYSE, Amex, or Nasdaq National market suspends the same security from dealings regardless of whether delisting procedures have been instituted.

2. New Rule 17A Maintenance Standards. Amendment No. 1 to the proposal adopts a new provision, Rule 17A under Article XXVIII, which establishes maintenance standards applicable to all Tier I issues. Specifically, these provisions confirm the Exchange's authority to delist Tier I securities if the Exchange deems such action to be necessary to protect the interest of public investors. Exchange rules currently contain similar protection with respect to the CHX's authority to delist Tier II securities.[16] By the terms of Amendment No. 1 to the proposed rule change, the Exchange reserves the right to delist the securities of any corporation, subject to SEC rules, which engages in practices not in the public interest or whose assets have been depleted to the extent that the company can no longer operate as a going concern or whose securities have become so closely held that it is no longer feasible to maintain a reasonable market in the issue.

New Rule 17A further states that the CHX reserves the right to delist the securities of any corporation which has drastically changed its corporate structure or its type of operation. Consistent with Amendment No. 1 revisions to Rule 22(a) under Article XXVIII, Rule 17A confirms the Exchange's authority to make an appraisal of, and determine on an individual basis, the suitability for continued listing of an issue in light of all pertinent facts. New Rule 17A states, moreover, that the Exchange retains the authority to delist a security even if it meets the CHX's enumerated criteria by virtue of an issue's continued listing on the NYSE, Amex or Nasdaq National Market. The Exchange notes that many factors will be considered in this connection, including, but not limited to, abnormally low selling price or volume.

Amendment No. 2 to the proposal provides a further clarification of the Exchange's authority to make an independent determination of the continued suitability of Tier I securities listed on the CHX. Specifically, Amendment No. 2 deletes language from Rule 17A that could be interpreted to allow the Exchange to continue to list an issue that fails to meet CHX listing maintenance requirements.[17] This language was deleted from the proposal to make it clear that CHX maintenance standards can not be waived by the CHX in the exercise of its independent authority to suspend or delist securities listed on the Exchange. Accordingly, it reiterates the affirmative obligation of the CHX to take appropriate action to suspend or delist securities that fail to meet CHX Tier I listing maintenance standards.

III. Discussion

The Commission finds that the proposed rule change is consistent with section 6(b) of the Act.[18] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5)[19] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.[20]

The development and enforcement of adequate standards governing initial and continued listing of securities on an exchange is of critical importance to financial markets and the investing public. Listing standards serve as a means for a self-regulatory organization to screen issuers, and to provide listed status only to *bona fide* companies with sufficient float, investor base and trading interest to maintain fair and orderly markets. Once a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and characteristics of that issue to ensure that it continues to meet standards for market depth and liquidity.

The Commission believes the proposed rule change enhances the ability of the Exchange to facilitate legitimate capital formation for issuers while providing appropriate protection to public investors in its markets. For example, the proposed rule change crates maintenance standards for stock warrants listed on Tier II of the Exchange similar to standards that now exist for Tier I warrants. Under these standards, the common stock or security underlying the stock warrant must meet all of the Tier II maintenance requirements as set forth in Article XXVIII, Rule 22.[21] This amendment fosters investor protection by providing the Exchange with the authority to delist stock warrants where the underlying security may lack certain characteristics, such as a sufficient investor base or public float, while providing a market place for warrants where the underlying securities have adequate depth and liquidity to support exchange trading.[22]

As described above, the proposal would also clarify that if the Exchange chooses to list, under Tier I or Tier II, a security listed or approved for listing within the past twelve months on the NYSE, the Amex (except for ECM securities) or the Nasdaq National Market, the issuer shall not be required to fulfill all of the requirements for an original listing application, but rather an alternative list of requirements. The Commission believes this rule change will provide the Exchange greater flexibility in determining in an expedited manner which securities warrant inclusion on the Exchange, without compromising the benefits that the Exchange's listing process offers to investors in ensuring that securities meet the listing standards.

The Commission notes, for example, that companies using the alternative listing methods will have to provide a copy of the original application filed with the other listed market. This should generally contain much of the same information required by the CHX's listing application. Further, a company using this listing method will be required to submit its last 10–K and 10–Q and most recent proxy statement. This will ensure that the CHX will have the

[16] *See* CHX Rule 22(a) under Article XXVIII.

[17] Amendment No. 1 states that, ''[T]he Exchange may also make an appraisal of, and determine on an individual basis, the suitability for continued listing of a issue in light of all pertinent facts whenever it deems such action appropriate, even though a security meets or **fails to meet** enumerated criteria * * *.'' (Emphasis added). Amendment No. 2 deletes the language ''fails to meet'' from this provision. Conforming amendments were also made to Section 22(a). *See* note 12 *supra.*

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

[20] In approving the rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[21] Under Section 22(b), issues will normally be considered for delisting if publicly held shares, excluding officers, directors, and other concentration, fall below 100,000 common shares or under 50,000 preferred shares. Issues will also be considered for delisting if the stockholders drop below 500 for preferred and common stock. As amended by this approval order, Section 22(c) further provides that issues will be considered for delisting if the company fails to maintain a net worth which is the greater of (i) 150% of the prior year's consolidated net loss or (ii) $500,000.

[22] In discussions preceding the approval of the instant filing, the CHX agreed to consider adopting additional standards to govern CHX listed warrants. The CHX will consider, for example, the appropriateness of establishing maintenance standards that provide for a minimum number of public shareholders of warrants to maintain continued listing on the CHX. Telephone conversation between Patricia Levy, Senior Vice President and General Counsel, CHX, with Sharon Lawson and Sarrita Cypress, SEC, Division of Market Regulation, June 10, 1998.

most updated financial information to analyze an issuer's suitability for listing and that CHX will not be relying on stale information submitted to the original marketplace. As noted above, the CHX has also included a requirement that allows the Exchange to ask for any additional information it deems appropriate to support the listing application. Accordingly, to the extent the original application raises questions or needs supplementation, the CHX will have the power to ask for additional information. Finally, the Commission notes that these changes adopt an alternative application procedure only for those companies that have already gone through a recent listing process with a primary market center (*i.e.*, Nasdaq National Market Amex or NYSE). It does not change the CHX's duty to continue to ensure that all listed companies meet the applicable listing standards prior to listing.

With respect to the maintenance standards for securities listed on the Exchange, the proposed rule change provides that if a security listed on the CHX is also listed on the NYSE, Amex (except for ECM securities) [23] or Nasdaq National Market, and it continues to be listed on such other market, it shall not be required to meet certain of the maintenance standards contained in the Exchange's rules. The Commission has carefully considered this provision of the proposed rule change. While the provision raises certain concerns, the Commission believes that the interests of investors are adequately protected because of certain safeguards that are built into the rules.

First, under the proposal as amended by the terms of Amendments No. 1 and No. 2, the CHX can only continue to list a security that fails the quantitative maintenance standards if it continues to be listed and has not been suspended from trading on the primary markets. If a dually listed security is not required to meet the CHX's maintenance standards by virtue of its trading on a primary market, and it is subsequently suspended or delisted from trading on such market, the Exchange would have to make an immediate and independent determinations as to whether the issue meets maintenance standards and can continue to list on the CHX. If it does not meet such standards, (or the issuer does not wish to continue listing on the CHX) the CHX has stated that the issue will be suspended from trading immediately and appropriate action will be taken to delist the security. Accordingly, the amended proposal should prevent issues that are clearly not meeting the quantitative listing maintenance standards of a primary market or the CHX from continuing to be traded on the CHX.

Further, the proposal, as amended, gives the Exchange specific authority to delist a security based on all pertinent facts even though the security continues to meet CHX listing standards, by, for example, continued listing on the NYSE, Amex, or Nasdaq National Market. The Commission notes that allowing the CHX to not apply its quantitative maintenance standards to a security listed on either of the three primary markets assumes, to a certain extent, that the primary market's own quantitative listing standards are being met. While in most instances we expect this to be the case, because compliance with maintenance standards will be the province of another SRO, the Commission believes it is extremely important that the CHX independently have the ability to delist a security if it has concerns about the issue or issuer. In this regard, the Commission expects the CHX to continue to periodically monitor dually listed issues. If it appears that there are concerns involving a listed company and that company continues to trade on a primary market, we would expect CHX to do a reasonable inquiry to ensure it should remain on CHX.[24]

As discussed above, Amendment No. 3 to the proposal requires an issuer of dually listed stock to notify the CHX if the issue falls below the continued listing standard of another market. The Commission believes this notification will provide the Exchange valuable assistance in its efforts to monitor dually listed issues to ensure compliance with listing maintenance standards.

Finally, we note that issuers of dually listed stocks will still continue to have to separately comply with the qualitative and disclose maintenance listing standards that exist under CHX rules to protect investors and will not be exempted from such requirements by virtue of trading on a primary market.[25] Accordingly, the Commission believes that although it is a very close question whether an issue listed on CHX should not have to meet certain maintenance standards as long as it continues to trade on a primary market, the protections discussed above should help to ensure continued suitability of issues for trading on the CHX.

The Commission finds good cause for approving Amendments No. 1, 2, and 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Commission believes good cause exists to accelerate approval of Amendment No. 1 to the proposal because the amendment makes significant clarifying changes to the rule proposal and strengthens the Exchange's authority to monitor and enforce the proposed revisions to its stock listing and maintenance requirements that are set forth in the original proposal. For example, in addition to the enumerated items identified in the original filing, Amendment No. 1 provides the Exchange with the authority to obtain any information it deems appropriate to determine the eligibility for listing on the CHX for those securities that have previously been listed on certain other markets. Further, critical to protecting the interest of investors, Amendment No. 1 gives the Exchange independently authority to delist or suspend a security that was previously excepted from listing maintenance requirements based on the security's listing on another exchange. The Commission believes, moreover, that there is good cause to accelerate the approval of Amendment No. 1 because it clarifies possible ambiguities regarding the scope of the Exchange's authority to delist securities.

Amendment No. 1 gives the Exchange broad authority to delist Tier I securities similar to that for Tier II securities. Based on the above, the Commission believes the terms and conditions of Amendment No. 1 clarify possible ambiguities regarding the scope of the CHX's proposal, as well as it provides crucial investor protection safeguards that are necessary to implement the revisions to the CHX listing and maintenance standards that are set forth in the proposal as originally filed.

The Commission believes good cause exists to accelerate the approval of Amendments No. 2 to the proposal because Amendment No. 2 provides a crucial clarification of the Exchange's authority to make an independent determination of the continued suitability of securities listed on the CHX. Specifically, Amendment No 2 deletes language from new Rule 17A and amended Rule 22(a) that could be interpreted to allow the Exchange to continue to list an issue that fails to meet CHX listing maintenance requirements. This language was deleted from the proposal to make it clear that CHX maintenance standards are not waivable.

Finally, good cause exists to accelerate the approval of Amendment

[23] See not 8 *supra*.

[24] For example, the CHX's periodic review might include a review of news reports regarding dually listed issuers.

[25] *See* note 14 *supra* for a listing of qualitative standards.

No. 3 to the proposal, because the amendment requires a dually listed issuer to promptly notify the CHX if the issue falls below the continued listing maintenance standards of another market. This notification will in turn allow the CHX to ensure that the interests of investors are protected because the CHX will conduct an immediate independent determination of whether the issuer should continue to be listed on the Exchange.

In granting accelerated approval for Amendments Nos. 1, 2, and 3, the Commission notes that it did not receive any comments on the original proposal, which was noticed for the full statutory period. In addition, the amendments strengthen and clarify the CHX's original proposal. Accordingly, for the reasons stated above, the Commission finds that there is good cause, consistent with Sections 19(b)[26] and 6(b)(5)([27] of the Act, to accelerate approval of Amendments Nos. 1, 2 and 3.

Interested persons are invited to submit written data, views, and arguments concerning Amendments No. 1, 2, and 3 including whether the amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principle office of the CHX. All submissions should refer to File No. SR–CHX–98–07 and should be submitted by October 29, 1998.

IV. Conclusion

For the reasons stated above, the Commission believes the CHX's amended proposal is consistent with the Act and, therefore, has determined to approve it. The amended proposal provides the Exchange with greater flexibility in listing and maintenance standards for CHX listed securities, while continuing to ensure the protection of investors and the public interest.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[28] that the amended proposed rule change, SR–CHX–98–07, be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[29]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–26997 Filed 10–7–98; 8:45 am]

BILLING CODE 8010–01–M

[26] 15 U.S.C. 78s(b).

[27] 15 U.S.C. 78f(b)(5).

[28] 15 U.S.C. 78s(b)(2).

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40511; File No. SR–NASD–97–61]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendments Nos. 1 and 2 by the National Association of Securities Dealers, Inc., Relating to the Application of NASD's Mark-up Policy to Transactions In Government And Other Debt Securities

September 30, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 20, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), filed with the Securities Exchange Commission (''SEC'' or ''Commission'') a proposed rule change, On August 26, 1998, the Association filed Amendment No. 1 to the proposed rule change.[3] Amendment No. 1 replaces and supersedes the original proposed rule change and is described in Items I, II, and III below, which Items have been prepared by NASD Regulation, Inc. (''NASD Regulation''). On September 8, 1998, the Association filed Amendment No. 2 in which the Association consented to an extension of the time period to 60 days for Commission action specified in Section 19(b)(2) of the Act[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Alden Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, SEC (Aug. 26, 1998).

[4] Letter from Alden Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, SEC (Sept 8, 1998).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing NASD Rule IM–2440–2 to provide guidance to the membership on mark-up and mark-down practices for debt securities, excluding municipal securities. NASD Regulation also proposes to renumber current Rule IM–2440 as Rule IM–2440–1. Below is the text of the proposed rule change. Proposed new language is in italics.

IM–2440–*1.* Mark-Up Policy

* * * * *

IM–2440–2. Interpretation Of The Board of Governors—Application Of the NASD Mark-Up Policy To Transactions In Government And Other Debt Securities[5]

As a result of the Government Securities Act Amendments of 1993 that expanded the NASD's sales practices authority to encompass government securities, the Board believes it is appropriate to provide guidance to the membership on mark-up and mark-down[6] *practices for such securities, as well as for other debt securities, except for municipal securities.*[7] *The market for government and debt securities is as multidimensional as the securities themselves. The markets range from the Treasury securities market—representing the largest, most liquid securities market in the world—to markets for collateralized mortgage obligations and structured securities, which often are substantially less liquid and which include securities with features that are highly unique or are customized for particular investors. Therefore, the mark-ups and mark-downs charged on government and other debt securities must properly reflect the facts and circumstances of each particular transaction,*[8] *including the specific type of*

[5] *This interpretation does not address the application of the mark-up policy to transactions involving the domination and control of the market for a particular security. When a dealer dominates and controls the market for a particular security, that dealer's contemporaneous cost is the best evidence of the prevailing market price. The analysis of whether the market for any particular security is dominated or controlled should take into account the extent to which the particular security is fungible with other similar securities.*

[6] *A mark-up is the difference between the price that the dealer, acting as a principal, charged to the customer and the prevailing market price for the security. Lehman Brothers Inc., Exchange Act Release No. 37673 (Sept. 12, 1996). A mark-down is the difference between the price that the dealer, acting as principal, paid to the customer and the prevailing market price for the security.*

[7] *Rules for municipal securities are promulgated by the Municipal Securities Rulemaking Board.*

[8] *Whether the amount of mark-ups charged on a particular transaction is excessive depends on whether, based on all the relevant facts and circumstances, the price charged the customer is reasonably related to the prevailing inter-dealer*

Continued

government or other debt securities involved. This interpretation is intended to clarify the application of the Association's Mark-Up Policy in determining the prevailing market price for principal transactions in government and other debt securities. This interpretation is not intended to provide new guidance with respect to the percentage amounts that would constitute excessive mark-ups or mark-downs in particular cases. The Association and the SEC have made clear that the appropriate mark-up or mark-down from the prevailing market price for most types of government and other debt securities is usually substantially less than 5 percent.

As described below, the prevailing market price for a security against which to measure a mark-up or mark-down is based primarily on the dealer's contemporaneous cost or, in certain cases, contemporaneous inter-dealer transaction prices in that specific security. For example, when a dealer is not acting as a market maker, the Association and the SEC have consistently held that, absent countervailing evidence, the best evidence of the prevailing market price is the dealer's contemporaneous cost of acquiring the securities.[9] Countervailing evidence of the prevailing market price may be considered only where the dealer made no contemporaneous transactions or can show that in the particular circumstances the dealer's contemporaneous cost is not indicative of the prevailing market price.[10] This may occur, for example, when the debt securities were bought from knowledgeable customers below the prevailing market price, or where, in the interim, interest rates have changed or other market events have occurred.

In contrast, integrated dealers, i.e, dealers that not only sell to retail customers, but also act as wholesale market makers, in active, competitive markets, are permitted to calculate their mark-ups from their contemporaneous sales prices to other dealers.[11] In this case, these contemporaneous transactions constitute highly reliable evidence of the prevailing market price of a security. In the debt securities markets, a market marker is a dealer who, with respect to a particular security, furnishes bona fide competitive bid and offer quotations on request and is ready, willing, and able to effect transactions in reasonable quantities at his or her quoted prices with other brokers or dealers.

The use of contemporaneous cost also applies to riskless principal transactions. The Commission has held that when a dealer that is not a market maker effects a riskless principal transaction, the dealer's cost must always be used as the base on which to calculate mark-ups.[12] Similarly, contemporaneous resale price would constitute evidence of prevailing market price for mark-downs.

When government or other debt securities trade inactively, inter-dealer transactions may be rare on non-existent. Therefore, establishing the prevailing market price in a transaction involving an inactively traded bond, note, or other debt obligation may be difficult. In such circumstances, absent countervailing evidence, the contemporaneous cost to the dealer of acquiring the security should be used as the basis for determining the appropriate mark-up. A transaction is ''contemporaneous'' if it occurs close enough in time to a later transaction that it would not be contemporaneous if it is followed by intervening changes in interest rates or other market events that reasonable would be expected to affect the market price.

Accordingly, when inter-dealer transactions are not available, a dealer that effects a transaction in government or other debt securities with a customer and determines the mark-up or mark-down on a basis other than its own contemporaneous cost must be prepared to provide evidence that is sufficient to overcome the presumption that contemporaneous cost provides the best measure of the prevailing market price. In this case, factors that the Board believes may be taken into consideration for a mark-up or a mark-down include but are not limited to:[13]

1. Prices of any dealer transactions in the security in question with institutional accounts with which any dealer regularly effects transactions in the same or a similar security;

2. Contemporaneous inter-dealer quotations in the security in question made through an inter-dealer quotation mechanism through which transactions do in fact occur in that security at prices that are reasonably related to the displayed quotations;

3. Yields calculated from prices of inter-dealer transactions in ''similar'' securities, as defined below;

4. Yields calculated form prices of transactions with institutional accounts in ''similar'' securities; and

5. Yields calculated from validated inter-dealer quotations in ''similar'' securities. In considering yields of ''similar'' securities, members may not rely on a limited number of transactions that are not fairly representative of the yields of transactions of ''similar'' securities taken as a whole.

Ideally, a ''similar'' security should be sufficiently similar to the security under review that it would serve as a reasonable alternative to an investor seeking the risk profile of an investment in the security under review. At a minimum, the security or securities should be sufficiently similar that a market yield for the security under review can be fairly estimated by interpolation or extrapolation from the yields of the ''similar'' security'' or securities. Where a security has several components, appropriate consideration may also be given to the prices or yields of the various components of the security.

The degree to which a ''security is similar'' as that term is used in Items 3, 4, and 5 above, may be determined by factors that include but are not limited to:

1. Credit quality considerations, such as whether the security is issued by the same or similar entity, bears the same or similar credit rating, or is supported by a similarly-strong guarantee or collateral;

2. The extent to which the security trades at a comparable spread over Treasuries of similar duration;

3. General structural characteristics of the issue, such as coupon, maturity, duration, complexity or uniqueness of the structure, callability, the likelihood that the security will be called, tendered or exchanged, and other embedded options; and

4. Technical factors such as the size of the issue, the size of the transactions or quotations being compared, the float and recent turnover of the issue and legal restrictions on transferability.

In the case of those debt securities that trade with significant equity-like characteristics (that is, where the value of the security is highly dependent on the particular circumstances of the issuer rather than responding to changes in interest rates in a manner typical of most other debt securities), the use of comparisons with similar securities of unrelated companies will generally not be relevant.

* * * * *

Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

I. Purpose

The Government Securities Act of 1986 (''GSA'') established a federal system for the regulation of brokers and dealers who transact business in

market price. SEC v. Feminella, 947 F. Supp. 722, 729 (S.D.N.Y. 1996).

[9] *See, e.g., F.B. Horner & Associates, Inc., 50 S.E.C. 1063 (1992).*

[10] *Lehl v. SEC, 90 F.3d 1483, 1485–96 (10th Cir. 1996); First Independence Group, Inc. v. SEC, 37 F 3e 30, 32 (2d Cir. 1994); Orkin v. SEC, 31 F.3d 1056, 1064 (11th Cir. 1994).*

[11] *Alstead, Dempsey & Co., 47 S.E.C. 1034 (1984).*

[12] *Kevin B. Waide, et al, S.E.C. 932, 935–37 (1992) (''Waide''). See also Strategic resource management, Inc., Exchange Act Release No. 36618 (Dec. 21, 1995), (market makers in equity securities are not subject to the Waide analysis).*

[13] *In analyzing the factors, the relative importance of the factors, listed depends on the facts and circumstances relating to the transaction, such as the order size, timeliness of the source of information, and the relative spread of the quotations. In addition, because the ultimate evidentiary issue is the prevailing market price, isolated transactions or quotations generally will not have much, if any, weight or relevance. Finally, in the case of a mark-up charged by a dealer that is not a market maker, the price must be based on the bid side of the market or, in the case of a mark-down, the offer side.*

government securities and certain other exempted securities. The GSA, however, did not grant the NASD authority to apply its sales practice rules to such transactions. In December 1993, Congress enacted the Government Securities Act Amendments of 1993, which eliminated the statutory limitations on the NASD's authority to apply its sales practice rules to transactions in exempted securities, including government securities, but excluded municipal securities (''previously exempted securities'').

On July 15, 1994, the NASD Board of Governors (''NASD Board'') authorized publishing the proposed mark-up interpretation for member comment. (*See* Notice to Members (''NTM'') 94–62 (Aug. 1994).[14] The mark-up interpretation filed in SR–NASD–97–61 on August 20, 1997, was revision of the mark-up interpretation that was originally published in NTM 94–62.

The mark-up interpretation for transactions in debt securities set forth in Amendment No. 1 (''Debt Mark-Up Interpretation'') reflects the additional efforts of NASD Regulation to address the application of the NASD's general rule concerning fair pricing, Rule 2440, to fixed income securities. Because of the lapse of time since the filing of SR–NASD–97–61, NASD Regulation is substituting new language of Rule IM–2440–2 in its entirety for that contained in the original filing and deleting the previously filed discussion under Part II., A., entitled ''Purpose,'' and substituting this text, which sets forth again the purpose of the proposed Debt Mark-Up Interpretation, appropriately amended to reflect changes in the text of proposed Rule IM–2440–2.

The NASD's existing policy relating to appropriate mark-ups in transactions with customers in current Rule IM–2440, ''Mark-Up Policy,'' was adopted by the NASD to provide guidance in applying Rule 2440, which generally requires members to conduct transactions with customers at fair prices. In particular, Rule IM–2440 (proposed to be renumbered as Rule IM–2440–1) provides guidance in determining whether a mark-up or mark-down is reasonably related to the prevailing market price of a particular security. Rule IM–2440 states that, in the absence of other bona fide evidence of the prevailing market, a member's own contemporaneous cost is the best indication of the prevailing market price of a security. With regard to debt securities, Rule IM–2440 notes that a higher percentage mark-up customarily is appropriate for a common stock transaction compared with the transaction in a debt security of the same size.

Rule 2440 and Rule IM–2440 apply to all over-the-counter transactions, whether in listed or unlisted equity and debt securities. These rules apply to corporate debt transactions but do not apply to exempted securities, such as government securities. After approval of the proposed rule change, these rules will apply to all debt securities, except municipal securities. Fraudulent mark-ups, however, violate existing legal standards and NASD Rule 2110, which prohibits conduct that is inconsistent with just and equitable principles of trade.

Rule IM–2440 describes a number of factors to be considered in determining the fairness of a mark-up or mark-down, and generally limits permissible mark-ups to no more than five percent. This test is not a bright line standard, however, and the appropriateness of the amount of a mark-up in a given case is heavily affected by the facts and circumstances of each case.

Under the law derived from Commission and NASD decisions applying the Mark-Up Policy, as approved by court review, the prevailing market price of a particular security for pricing purposes may be demonstrated by reference to inter-dealer transaction prices or, in some cases, quotations, where those quotations are validated by actual transactions that are close in time to the trade in question. Where such prices or quotations do not exist, the mark-up must be determined by reference to the dealer's contemporaneous cost of acquiring the security, absent other *bona fide* evidence of the prevailing market price.

The importance placed by the NASD on fair pricing and current Rule IM–2440 reflect the critical role that fair pricing considerations play in assuring the integrity of security markets and the confidence that investors place in those markets. The Debt Mark-Up Interpretation attempts to adequately protect those interests in a way that gives due consideration to the differences between debt and equity markets, and the differences among various debt instruments and their markets, but does not depart from the basic tenets of current Rule IM–2440.

In general, proposed Rule IM–2440–2 is based on the premise that the fundamental principles that are applied to mark-ups in equity markets apply also to the debt markets. Specifically, proposed Rule IM–2440–2 seeks to provide guidance as to how to determine the ''prevailing market price'' for debt securities. This determination forms the basis for calculating the amount of an appropriate mark-up or mark-down in a particular transaction.

Proposed Rule IM–2440–2 distinguishes transactions entered into by dealers who are market makers and states that market makers ordinarily are entitled to calculate mark-ups based on their contemporaneous sales prices to other dealers. The Debt Mark-Up Interpretation does not address the application of mark-up principles in cases involving a market maker that exercises domination and control of a market in a particular security but notes that in such cases, the dealer's contemporaneous cost is the best evidence of the prevailing market price.

Proposed Rule IM–2440–2 recognizes that debt and equity markets often differ in the extent and availability of inter-dealer transaction prices for a particular security. It makes clear that a dealer, other than a dealer acting as a market maker in a particular security, must be prepared to rely on its own contemporaneous cost in acquiring a security when pricing the security for mark-up purposes, unless the dealer made no contemporaneous trades or can show that in the particular circumstances the dealer's cost is not indicative of the prevailing market price.

The Debt Mark-Up Interpretation sets forth various factors other than contemporaneous cost that relate to the prevailing market price of debt securities. Some of these factors relate to yields derived from ''similar securities.'' In addition, in determining whether one security is sufficiently ''similar'' to another for these purposes, the Debt Mark-Up Interpretations sets forth four factors to consider. In this respect, proposed Rule IM–2440–2 recognizes that securities of different types and issuers may be more highly fungible in debt than in equity markets, to the extent that debt markets are more often driven by yield than by other considerations that are unique to a particular issuer.

Difficult questions often are posed with respect to mark-ups of debt securities that are relatively illiquid or

[14] At the same time the mark-up interpretation was published, the NASD also published a suitability interpretation (''Suitability Interpretation''). The many public comments received about the Suitability Interpretation raised significant issues. As a result, the Association deferred action on the proposed mark-up interpretation until the Commission approved the Suitability Interpretation and the NASD's general authority to subject persons engaging in transactions in previously exempted securities to specified rules in the Rule 2000 Series, the Rule 3000 Series, and related rules. *See* SR–NASD–95–39, Securities Exchange Act Release No. 37588 (Aug. 20, 1996), 61 FR 44100 (Aug. 27, 1997); and NTM 96–66 (Oct. 1996).

that are designed for a particular customer or type of customer. The Interpretation presumes that a comparison to ''similar'' securities may be helpful in establishing the prevailing market price in these cases, while adhering to the principle that contemporaneous cost remains the default standard in these cases unless the dealer can show that this measure is not indicative of the prevailing market price.

The Debt Mark-Up Interpretation provides guidance regarding how members, in their principal transactions, should determine the prevailing market price of a government or other debt security as the basis for establishing the amount of the mark-up or mark-down for the security. In providing such guidance, proposed Rule IM–2440–2 addresses consideration of factors relating to yields and related prices of similar securities.

Description of Proposed Rule

Standard for Determining the Prevailing Market Price

The Debt Mark-Up Interpretation is not intended to represent a departure from Rule IM–2440 (proposed to be renumbered as Rule IM–2440–1), but is being proposed to more accurately apply existing principles to government securities and other debt securities. It states that ''the prevailing market price for a security against which to measure a mark-up or mark-down is based primarily on the dealer's contemporaneous cost or, in certain cases, contemporaneous inter-dealer transaction prices in that specific security.''

The proposed Debt Mark-Up Interpretation notes that contemporaneous cost is not always the best indicator of prevailing market price in certain circumstances. As is the case in the equity markets, integrated dealers who sell both to retail customers and also act as wholesale market makers in active and competitive markets are permitted to calculate mark-ups from their contemporaneous sales prices to other dealers. This principle recognizes that contemporaneous transactions by market makers in active and competitive markets constitute highly reliable evidence of the prevailing market price and thus, in these circumstances, the presumption that contemporaneous cost provide the best measure does not apply. The Debt Mark-Up Interpretation states that, in the context of the debt markets, a market maker is a dealer who, with respect to a particular security, furnishes *bond fide* competitive bid and offer quotations on request and is ready, willing, and able to effect transactions in reasonable quantities at his or her quoted prices with other brokers or dealers. This language recognizes that dealers in debt markets may act effectively as market makers in a group of securities without publishing continuous two-sided quotations for each security within the group. Consistent with these principles as recognized in the equity markets, this rationale does not apply where a market is dominated and controlled by one firm.

In addition, the Debt Mark-Up Interpretation notes that contemporaneous cost is not the appropriate measure where the dealer made no contemporaneous trades in the security in question. In this regard, the Debt Mark-Up Interpretation states that a transaction is ''contemporaneous'' if it occurs close enough in time to a later transaction that it would reasonably be expected to reflect the current market price for the security. Conversely, a transaction is not contemporaneous if it is followed by intervening changes in interest rates or other market events that reasonably would be expected to affect the market price.

In cases where a contemporaneous trade does exist, a dealer that is not a market maker may adduce countervailing evidence when it can show that in the particular circumstances cost is not indicative of the prevailing market price. The Debt Mark-Up Interpretation cites, for example, the circumstance in which a dealer can show that the securities were bought from knowledgeable customers at prices below the prevailing market price.

Evidence That Overcomes the Presumption Regarding Contemporaneous Cost

The Debt Mark-Up Interpretation states that when inter-dealer transactions are not available, a dealer that effects a transaction in government securities or other debt securities with a customer and determines the mark-up or mark-down on a basis other than its own contemporaneous cost, must be prepared to ''provide evidence that is sufficient to overcome the presumption that contemporaneous cost provides the best measure of the prevailing market price.''

A member should maintain sufficient information and documentation to overcome the presumption and to justify the price relied upon in such circumstances. The type of information that should be maintained will vary from member to member, based on the type of security in question. However, the information being maintained should place the member in a position to provide a clear and concise explanation when questioned about its mark-ups and mark-downs. Examples of such factors supporting *bona fide* evidence of a better market price, however, could include information such as the pre-payment speeds (PSA) used when pricing the debt instrument being acquired or sold, and the yield curve for U.S. Treasury securities at the time the transaction is executed.

Reliance On Other Transaction Prices and Quotations

The Debt Mark-Up Interpretation states that, in the absence of inter-dealer transactions, other factors may be taken into consideration in determining the prevailing market price of debt securities. None of the factors listed is intended to be per se *bona fide* evidence of a better market price. This determination must always be made by the member on a case-by-case basis.

The first factor is prices of any dealer transactions in the security in question with institutional accounts with which any dealer regularly effects transactions in the same or a similar security. This statement recognizes that the regularity of dealing with other institutions in the same security may increase the validity of referencing such transactions from pricing purposes.

The second factor for consideration is contemporaneous inter-dealer quotations in the security made through an inter-dealer quotation mechanism through which transactions do in fact occur at prices that are reasonably related to the displayed quotations.

The other factors enumerated are related to yields that are calculated by reference to similar securities, including yields calculated by reference to inter-dealer transactions, transactions with institutional accounts and validated inter-dealer quotations. Collectively, these factors assume that reliable indications of the market price for one security may be helpful in determining the market price for another security that is similar in terms of characteristics and trading environment. The inclusion of these factors reflects the importance of yield as a measure of comparison in the debt markets. However, the Debt Mark-Up Interpretation also states that, in considering such factors, firms may not rely on a limited, unrepresentative number of transactions. This point is particularly relevant with respect to isolated transactions with institutional accounts, the prices for which may be heavily affected by factors unique to the transactions, including the nature, size, and sophistication of the customers who

are counterparties to the transactions. The inclusion of this factor is intended to recognize that in some cases, institutional customers that trade frequently in the debt markets may possess levels of sophistication and influence that are equivalent to dealers in the same markets.

Determining the ''Similarity'' of Securities for Pricing Purposes

The consideration of similar securities for pricing purposes requires a determination that other securities are, in fact, similar enough to be used as a pricing reference. The proposed rule change, therefore, provides examples of factors that a member should consider to determine whether another security is similar enough to be a useful pricing reference.

The first factor for consideration relates to credit quality issues, i.e., whether the security is issued by the same or similar entity, bears the same or similar credit rating, or is supported by the same or a similar guarantee or collateral. These factors may be significant with regard to certain corporate debt and other securities for which creditworthiness is important.

The second factor for consideration is the extent to which a security trades at a comparable spread over U.S. Treasury securities of similar duration.

The third set of factors relates to the general structural characteristics of the issue, including coupon, maturity, duration, complexity or uniqueness of the structure, callability (and likelihood of being called, tendered or exchanged), and other embedded options.

The fourth set of factors relate to other issues that may affect how the market determines prices for the security in certain circumstances, such the size of the issue, the size of the transactions or quotations being compared, the float and recent turnover of the issue and legal restrictions on transferability.

The factors described relate both to the unique characteristics of the security and also to the characteristics affecting the trading market for the security in question. The latter set of factors, e.g., the extent to which a security trades at comparable spreads to U.S. Treasury securities, are intended to refer to the market that exists at the time of the transaction that is being analyzed for purposes of determining the mark-up

Applicability to Particular Debt Securities

The Debt Mark-up Interpretation states that it is not intended to apply to all debt securities. It clarifies that the use of similar securities of unrelated companies will generally not be relevant for pricing purposes in the case of those debt securities that trade with significant equity-like characteristics (that is, where the value of the security is highly dependent on the particular circumstances of the issuer, rather than responding to changes in interest rates in a manner typical of most other debt securities).

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[15] which requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that the proposed Debt Mark-Up Interpretation will provide guidance regarding mark-ups and mark-downs in fixed income securities and will aid members in complying with their obligations under the Association's rules, including Rule 2440.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The proposed rule change was published for comment in NASD Notice to Members (''NTM'') 94–62 (Aug. 1994), and eight comment letters were received in response. Of the eight comment letters, one was in favor of the proposed rule change without change, six were in favor with recommendations, and one was opposed. Because a period of time has elapsed between the filing of SR–NASD–97–61 and the amendments, by Amendment No. 1, NASD Regulation is deleting the previously filed discussion under Part II, C., and substituting this text, which sets forth the concerns of the commenters and the Association's response, appropriately amended to reflect any changes in the text of the Debt Mark-Up Interpretation.

The Debt Mark-Up Interpretation reflects revisions from the proposal contained in NTM 94–62 and this proposed rule change (SR–NASD–97–61) as it was originally filed. These changes should provide additional guidance to members.

With several revisions, the Association seeks to clarify that the Debt Mark-Up Interpretation is not a departure from the Association's existing Mark-Up Policy, but rather makes clearer the application of the Mark-Up Policy to markets for government and other debt securities. First, a statement to this effect has been added to the Debt Mark-Up Interpretation. In addition, for similar reasons, a sentence has been added in the first paragraph to reiterate the long-standing policy that the mark-up or mark-down from the prevailing market price for most types of government and other debt securities should usually be substantially less than 5 percent.

The fifth paragraph of the Debt Mark-Up Interpretation has been modified to clearly articulate that, absent countervailing evidence, the contemporaneous cost to the dealer of acquiring a security should be used as the basis for determining a mark-up, although the new Debt Mark-Up Interpretation also explicitly says this standard does not apply to market makers, who generally are able to price from their inter-dealer sales prices. The Debt Mark-Up Interpretation also contains language to clarify that where inter-dealer transactions are not available, a dealer determining a mark-up or mark-down on a basis other than its own contemporaneous cost must be prepared to provide evidence that is sufficient to overcome the presumption that contemporaneous cost provides the best measure of the prevailing market price of the security.

In addition, to provide more clarity in the Debt Mark-Up Interpretation relating to the pricing of a security when a dealer is a market maker or when the dealer is engaging in a riskless principal transaction, the Association has added the following. First, the Debt Mark-Up Interpretation defines market maker in the context of fixed income securities and also makes clear that a dealer who is a market maker in an active, competitive market is permitted to calculate its mark-up from contemporaneous sales prices to other dealers, rather than relying on the dealer's own contemporaneous cost in acquiring the security. Second, proposed Rule IM–2440–2 notes that the Commission has held that when a dealer that is not a market maker effects a riskless principal transaction, the dealer's cost must always be used as the basis for the mark-up.

The Debt Mark-Up Interpretation also addresses the increased complexity for compliance and enforcement purposes

[15] 15 U.S.C. 78o–3(b)(6).

surrounding use of similar securities for pricing purposes. Central to this matter is the issue of which characteristics make two securities similar enough for pricing purposes. In the seventh paragraph, the Debt Mark-Up Interpretation states that, ideally, a security should be sufficiently similar to the security under review that it would serve as a reasonable alternative to an investor seeking the risk profile of an investment in the security under review. It also states that, at a minimum, a security or securities should be sufficiently similar that a market yield for the security under review can be fairly estimated by interpolation or extrapolation from the yields of a similar security or securities.

The Debt Mark-Up Interpretation also clarifies that the factors listed for consideration in determining the prevailing market price of a particular security should not be mechanically prioritized in the order listed. Rather, the relative importance of the factors listed depends on the facts and circumstances relating to the transaction, such as the order size, timeliness of the source of information, and relative spread of the quotations.

In note one, the Association has clarified that certain regulatory issues that are related to the pricing of a security are not intended to be addressed by the proposed rule change. Specifically, the Debt Mark-Up Interpretation does not apply to transactions involving the domination and control of the market for a particular security.

Specific Comments

Two commenters (Nos. 1 and 6) expressed concerns that the list of factors for consideration in determining the prevailing market price of a security are not correctly prioritized. One commenter (No. 1) suggested that the Debt Mark-Up Interpretation clarify that the factors used to determine the prevailing market price are not necessarily listed in preferential order, or if so, that the factors be reordered to reflect that factors such as inter-dealer transactions in similar securities and validated inter-dealer quotations in similar securities are more significant factors than their current order in the list indicated. Similarly, one commenter (No. 6) stated that the first two factors, *i.e.*, prices of dealer transactions with institutional customers and validated inter-dealer quotations in the same security, may be equally as rare as inter-dealer transaction prices for some debt securities, particularly for those securities specifically designed to meet the needs of a specific investor. In response, the Debt Mark-Up Interpretation now contains a footnote stating that the relative importance of the factors listed depends on the facts and circumstances relating to the transaction, such as the order size, timeliness of the source of information, and relative spread of the quotations. In addition, because the ultimate evidentiary issue is the prevailing market price, isolated transactions or quotations generally will not have much, if any, weight or relevance. Finally, when those factors are applied to trades by dealers that are not market makers, the footnote states that the mark-up must be based on the bid side of the market, *e.g.*, the inter-dealer bid quotation, or in the case of a mark-down, on the offer side of the market, *e.g.*, the inter-dealer offer quotation.

One commenter (No. 1) questioned why some of the factors listed for determining the prevailing market price reference the term ''price'' and the other factors reference the term ''yield.'' This commenter also was concerned that the proposal did not clarify that most bonds are traded on a ''basis-point spread'' against U.S. Treasury securities and that debt securities with similar characteristics will trade at similar ''base-point spreads'' against comparable U.S. Treasury securities. The commenter argued that this issue is important because it is the practice in the government security inter-dealer market to determine a particular bond's market price by comparing it with the basis-point spread of similar securities rather than a similar security's ''execution price.''

In response, NASD Regulation agrees with the commenter that the terms ''price'' and ''yield'' are interchangeable for referencing transactions in the ''same security.'' However, the terms are not interchangeable when referencing ''similar'' securities. This distinction exists because similar securities may have different prices depending on their maturity, coupon, or other characteristics, while at the same time the yields of the two securities may be related (for example, both trade with a similar basis-point spread against U.S. Treasury securities). NASD Regulation has continued to frame the first two factors in terms of price because the Association preliminarily believes that these factors will be more readily understood in this way, although NASD Regulation would wish to consider any comments on whether the Debt Mark-Up Interpretation should provide more focus on yield.

One commenter (No. 1) raised concerns that the proposed rule change should reflect that the prevailing market price of a government security will depend on whether the transaction involves an odd or whole lot and, further, that the wholesale price of government securities, in general, varies depending on the quantity of the securities in the transaction involved. In response, the Debt Mark-Up Interpretation provides that the degree to which a security is ''similar'' to another security may be determined by technical factors, such as the size of the transactions and quotations being compared.

One commenter (No. 1) questioned the merit of proposed language that would allow a member to aggregate the value of components of a security where such values can be derived from prices or yields of similar securities as reflected in transactions or quotations in the market between dealers or with sophisticated institutional customers. The commenter suggested that this was actually a subset of what could be taken into account when evaluating prices of similar securities, rather than a discrete approach for determining the prevailing market price of a particular security. NASD Regulation concurs with the comment and the language in question was deleted from the Interpretation.

One commenter (No. 2) suggested that the proposed rule change should contain a definition of the term ''contemporaneous cost.'' In response, in the fifth paragraph NASD Regulation has stated that a transaction is ''contemporaneous'' if it occurs close enough in time to a later transaction that it would reasonably be expected to reflect the current market price for the security, and that a transaction is not ''contemporaneous'' if it is followed by intervening changes in interest rates or other market events that reasonably would be expected to affect the market price.

One commenter (No. 3) recommended that the proposed rule change use the ''fair and reasonable'' pricing approach employed by Rule G–30 of the Municipal Securities Rulemaking Board (''MSRB''). Similarly, one commenter (No. 4) suggested that the proposed rule change should address the size of spreads of different government securities, taking into account the complexity and familiarity of the industry with the type of security. In response, NASD Regulation notes that the Debt Mark-Up Interpretation is not intended to duplicate or replace either Rule 2440 or the Mark-Up Policy, which provide a regulatory purpose similar to MSRB Rule G–30, but to apply the principles of these NASD rules to the debt markets for purposes of determining the prevailing market price

of a particular security on which to base a mark-up or mark-down. The Mark-Up Policy also currently allows for differences in mark-ups and mark-downs based on considerations such as the complexity of the security.

One commenter (No. 8) supported the methodology contained in the proposed rule change, but noted that a degree of subjectivity will of necessity accompany the use of the factors. Similarly, one commenter (No. 6) stated that the process of evaluating the degree of similarity between and among securities is clearly more subjective and qualitative than reference to actual prices or quotations in the same security, and subsequently, much will depend on the analytical approach utilized by members, customers and regulatory officials to determine which securities are similar. This commenter, therefore, suggested that a continuing effort may be required to refine the NASD's regulatory approach to determining and quantifying degrees of similarity among debt securities. NASD Regulation acknowledges that the Debt Mark-Up Interpretation, in providing guidance, does not answer all questions that will arise but presently does not believe that more objective standards are feasible. NASD Regulation would wish to consider any comments relating to this issue.

One commenter (No. 1) noted that the proposal contained the two terms, ''sophisticated institutional investors'' and ''institutional accounts,'' which appeared duplicative. In response, NASD Regulation replaced the term ''sophisticated institutional investors'' with the term ''institutional accounts.''

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 90 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, [16] the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the File No. SR–NASD–97–61 and should be submitted by December 7, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–26998 Filed 10–7–98; 8:45 am]

BILLING CODE 8010–01–M

[16] The NASD will file Amendment No. 3 consenting to a period of 90 days, beginning from the date of publication of notice of filing of the proposed rule change SR–NASD–97–61 in the **Federal Register**, for the Commission to act as provided in Section 19(b)(2). Telephone conversation between Sharon Zackula, Assistant General Counsel, NASD Regulation, and Karl Varner, Attorney, SEC (Sept. 30, 1998).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40496; File No. SR–PCX–98–42]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Equity Rate Reduction and Simplification

September 29, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 8, 1998, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by PCX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX proposes to change its Schedule of Fees and Charges for Exchange Services for equity trade-related transaction charges. the text of the proposed rule change is contained in Exhibit A.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regualtory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, under the Schedule of Fees and Charges for Exchange Services, members are subject to equity trade-related charges based on cumulative billable trade value per month. The value charges are incremental and resulting charges are subject to discounts for automated trades. The Exchange proposes to reduce transaction charges and simplify the way volume based charges are calculated. Specifically, the Exchange proposes to eliminate listed comparison charges, reduce transaction fees and establish a share-based structure with four tiers (as opposed to the current value-based structure with seven tiers and twelve discount categories). The Exchange also proposes to cap block transactions at 20,000 shares, and to continue to waive transaction and off-board comparison charges in AMEX-listed issues.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[3] of the Act, in general, and furthers the objectives of Section 6(b)(4)[4] in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A)(ii)[5] and subparagraph (e)(2) of Rule 19b–4 thereunder.[6] At any time within 60 days of the filing of proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[7]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the PCX.

All submissions should refer to File No. SR–PCX–98–42 and should be submitted by October 29, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

EXHIBIT A—Text of the Proposed Rule Change[9]

SCHEDULE OF FEES AND CHARGES FOR EXCHANGE SERVICES

* * * * *

PCX EQUITIES: TRADE-RELATED CHARGES

* * * * *

EXCHANGE TRANSACTIONS

Cumulative Billable Shares Per Month
First 4 million shares: $0.31 per 100 shares
Next 10 million shares: $0.17 per 100 shares
Next 8 million shares: $0.09 per 100 shares
Over 22 million shares: $0.05 per 100 shares

All trades capped at 20,000 shares.

[EXCHANGE TRANSACTIONS

Cumulative billable trade value per month	Charge per $1,000 of trade value*
$0 to $50,000,000	$0.13
50,000,001 to	0.10
150,000,001 to	0.08
350,000,001 to	0.06
500,000,001 to	0.04
650,000,001 to	0.02
Over 800,000,000	0.01

*Value charges are incremental; i.e., first $50,000,000 of monthly business is charged $0.13 rate, next $100,000,000 is charged $0.10 rate, etc. Resulting charges are then subject to discounts shown below for any automated trades.

DISCOUNT AND CAPS

Automated Trade Discounts

The following discounts from the above transaction charges apply to automated trades:

Trade size (shares)	Under $150 million of trade value	$150 to $350 million of trade value	$350 to $500 million of trade value
100 to	35%	30%	25%
401 to	25	20	15
601 to	20	15	5
801 to	10	5	2.5

Block Trades

Transaction charges for block trades of 5,000 shares or more are subject to a minimum charge of $15 per trade side and a maximum charge of $75 per trade side.

Cap on Transaction Charges

Aggregate monthly transaction charges are subject to a cap of $0.45 per 100 shares]

OFFBOARD TRADE RECORDING AND COMPARISON

$0.05 per 100 shares for each side of individual stock, warrant, or rights for [listed or] offboard trades submitted for comparison (comparison charges are capped at 20,000 shares per trade side; minimum of $0.05, maximum of $10).

$0.03 per $1,000 bond face value for each side of individual bond trade submitted for comparison (minimum of $0.03, maximum of $3).

AMEX-LISTED ISSUES

Trades in AMEX-Listed equity issues are not subject to transaction or comparison charges.

* * * * *

[FR Doc. 98–26999 Filed 10–7–98; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(e)(2).

[7] In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40517; File No. SR–Phlx–98–28]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Its Arbitration Program

October 1, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 15, 1998, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change. The proposed rule change, as amended, is described in Items I and II below, which Items have been prepared by the Phlx. The Phlx submitted Amendment No. 1 to its proposal on August 12, 1998,[3] Amendment No. 2 on September 1, 1998,[4] Amendment No. 3 on September 24, 1998,[5] Amendment No. 4 on September 29, 1998,[6] and Amendment No. 5 on October 1, 1998.[7] The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Phlx Rule 950, Arbitration, as part of the cessation of the Exchange's arbitration program. Specifically, the Phlx proposes to amend Phlx Rule 950 to state that every member, member organization, member corporation,[8] participant[9] and participant organization as defined by Exchange rules (and hereinafter referred to as ''members'') shall be subject to the Code for every claim, dispute, or controversy arising out of or in connection with the securities business of any such member of the Exchange, including disputes outlined in Section 1, Section 6, and Section 8 of Phlx Rule 950.[10] For purposes of Rule 950, each member will be subject to and required to abide by the Code as if such member were a ''member'' of the NASD.

In addition to the foregoing, the Phlx also proposes to amend Rule 950 to combine the customer and member arbitration programs such that arbitrators for member cases will be drawn from the same pool as arbitrators for customer cases. This amendment is necessary to resolve cases already pending with the Phlx.[11]

The complete text of the proposed rule change is as follows [new text is italicized; deleted text is bracketed]:

ARBITRATION

Rule 950

* * * * *

Composition and Appointment of Panels

Sec. 3. Public customer controversies shall be heard as provided in Section 9 or Section 15, as applicable. [Member controversies shall be heard by a panel of Committee persons composed of on-floor and off-floor persons, who shall be appointed to serve on such panels by the Director of Arbitration in alphabetical rotation. The Committee shall consist of a pool of 25 persons, 15 members or persons associated with on-floor member and/or participant organizations and 10 members or persons associated with off-floor member and/or participant organizations. The Director of Arbitration shall appoint persons in an alphabetical rotation until a panel is composed. The Director of Arbitration shall fill a vacancy by appointing another person who is next in alphabetical rotation. A member controversy panel shall consist of not fewer than five (5) Committee persons where the amount in controversy does not exceed $100,000. Where the amount in a member controversy exceeds $100,000, a panel shall consist of not fewer than seven (7) Committee persons. In order for a pre-hearing conference or a hearing on the merits to be conducted, not more than two Committee persons may be absent from a proceeding from either a five (5) or a seven (7) member appointed panel. The panel chairman shall be designated by a majority of the panel.] *In member controversies, the Director of Arbitration shall appoint an arbitration panel which consists of no fewer than three (3) arbitrators, all of whom shall be from the securities industry.*

* * * * *

Composition of Panel

Sec. 16. The individuals who shall serve on a particular [public customer arbitration] panel shall be determined by the Director of Arbitration. The Director of Arbitration may name the chairman of the panel.

Notice of Selection of Arbitrators

Sec. 17. The Director of Arbitration shall inform the parties of the arbitrators' names and employment histories for the past ten (10) years, as well as information disclosed pursuant

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange proposes to (1) eliminate its arbitration program after all open cases are closed by submitting a rule filing to the Commission deleting Rule 950, except for those provisions regarding the transfer of its arbitration program to the National Association of Securities Dealers, Inc. (''NASD''); (2) discipline members who fail to abide by the NASD arbitration procedures; (3) disclose the names of arbitrators; and (4) combine the customer and member arbitration programs with respect to the selection of arbitrators. *See* Letter from Nandita Yagnik, Counsel, Phlx, to Michael Walinskas, Deputy Associate Director, Division of Market Regulation (''Division''), Commission, dated August 11, 1998 (''Amendment No. 1'').

[4] In Amendment No. 2, the Exchange (1) clarifies that disputes arising under Section 8 of Phlx rule 950 also are subject to the Code of Arbitration Procedure of the NASD (''Code''); (2) clarifies that the proposed rule change is consistent with Section 6(b) of the Act, because the proposal provides an alternative forum for members as well as investors to arbitrate disputes; (3) makes a technical change to its rule language in Section 16 of Rule 950; and (4) seeks accelerated approval of the proposed rule change. *See* Letter from Nandita Yagnik, Counsel, Phlx, to Michael Walinskas, Deputy Associate Director, Division, Commission, dated August 27, 1998 (''Amendment No. 2''). In a telephone conversation on September 1, 1998, the Exchange confirmed that Section 15 of rule 950 should not have been amended notwithstanding the revision to the Rule made in Amendment No. 2, because it only applies to public customers. Telephone conversation between Nandita Yagnik, Counsel, Phlx, and Terri Evans, Attorney, Division, Commission, on September 1, 1998.

[5] In Amendment No. 3, the Exchange clarified that the Exchange and NASD have reached an agreement regarding the transfer of arbitration cases, but have not entered into a contract regarding the transfer of cases. *See* Letter from Nandita Yagnik, Counsel, Phlx, to Katherine England, Assistant Director, Division, Commission, dated September 21, 1998 (''Amendment No. 3'').

[6] In Amendment No. 4, the Exchange revised the date on which arbitration cases would be transferred to the NASD from September 1, 1998 to October 1, 1998, and clarified that participants also are subject to NASD arbitration procedures. *See* Letter from Nandita Yagnik, Counsel, Phlx, to Katherine England, Assistant Director, Division, Commission, dated September 28, 1998 (''Amendment No. 4'').

[7] In Amendment No. 5, the Exchange made a technical change to Exchange Rule 44 reflecting the October 1, 1998, transfer date. *See* Letter from Nandita Yagnik, Counsel, Phlx, to Katherine England, Assistant Director, Division, Commission, dated September 30, 1998 (''Amendment No. 5'').

[8] This term was inadvertently omitted in Amendment No. 3, *supra* note 5. However, the Exchange confirmed that member corporations are subject to the Code. Telephone conversation between Nandita Yagnik, Counsel, Phlx, and Terri Evans, Attorney, Division, Commission, on September 30, 1998.

[9] This term inadvertently omitted in Amendment No. 3, *supra* note 5. However, the Exchange clarified that participants are subject to the Code. *See* Amendment No. 4, *supra* note 6.

[10] *See* Amendment No. 2 *supra* note 4 (clarifying that disputes arising under Section 8 are subject to the Code).

[11] *See* Amendment No. 1, *supra* note 3.

to Section 19, at least fifteen (15) business days prior to the date fixed for the first hearing session. A party may make further inquiry of the Director of Arbitration concerning an arbitrator's background. In the event that prior to the first hearing session, any arbitrator should become disqualified, resign, die, refuse or otherwise be unable to perform as an arbitrator, the Director of Arbitration shall appoint a replacement arbitrator to fill the vacancy on the panel [with respect to a public customer arbitration (with respect to a member controversy, the replacement arbitrator will be the next committee member in the alphabetical rotation)]. The Director of Arbitration shall inform the parties as soon as possible of the name and employment history of the replacement arbitrator for the past ten years, as well as information disclosed pursuant to Section 19. A party may make further inquiry of the Director of Arbitration concerning the replacement arbitrator's background and within the time remaining prior to the first hearing session or the five (5) day period provided under Section 18, whichever is shorter, may exercise its right to challenge the replacement arbitrator as provided in Section 18.

* * * * *

Disqualification or Other Disability of Arbitrators

Sec. 20. In the event that any arbitrator, after the commencement of the first hearing session but prior to the rendition of the award, should become disqualified, resign, die, refuse or otherwise be unable to perform as an arbitrator, the remaining arbitrator(s) shall continue with the hearing and determination of the controversy, unless such continuation is objected to by any party within five (5) business days of notification of the vacancy on the panel. Upon objection, the Director of Arbitration shall appoint a replacement arbitrator to fill the vacancy [in public customer controversies. With respect to member controversies, the next committee member in the alphabetical rotation shall be appointed to fill the vacancy]. The Director of Arbitration shall inform the parties as soon as possible of the name and employment history of the replacement arbitrator for the past ten years, as well as information disclosed pursuant to Section 19. A party may make further inquiry of the Director of Arbitration concerning the replacement arbitrator's background and within the time remaining prior to the next scheduled hearing session or the five (5) day period provided under Section 18, whichever is shorter, may exercise its right to challenge the replacement arbitrator as provided in Section 18.

* * * * *

Awards

Sec. 37. (a) All awards shall be in writing and signed by a majority of the arbitrators or in such manner as is required by applicable law [with respect to public controversies. With respect to member controversies, the Chairman of the panel will certify the decision of the panel in writing]. Such awards may be entered as a judgment in any court of competent jurisdiction.

(b)–(e) No change.

(f) All awards [involving public customers] and their contents[, excluding the names of the arbitrators,] shall be made publicly available. A party to an arbitration [involving a public customer] may request that the Director of Arbitration provide copies of all awards rendered by the arbitrator(s) chosen to decide its case. A party wishing to obtain such information must notify the Director of Arbitration within three (3) business days of receipt of notification of the identity of the person(s) named to the panel.

* * * * *

Arbitration Claims Filed on or After October 1, 1998

Sec. 43. The Exchange will not accept any new arbitration claims filed on or after October 1, 1998.

NASD Jurisdiction Over Arbitrations Against PHLX Members

Sec. 44. As of October 1, 1998, every member, member organization, member corporation, participant or participant organization (as defined by Exchange rules and hereinafter referred to as ''members'') shall be subject to the Code of Arbitration Procedure of the National Association of Securities Dealers, Inc. (''NASD'') for every claim, dispute, or controversy, arising out of or in connection with the securities business of any member of the Exchange, including disputes outlined in Section 1, Section 6 and Section 8 of this Rule. For the purposes of this Rule, each member shall be subject to, and shall abide by, the NASD Code of Arbitration Procedure as if such member were a ''member'' of the NASD.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments its received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

1. Purpose

The Exchange has determined that it is no longer willing to operate an arbitration program because of the costs associated with such a program. The Exchange has determined that effective October 1, 1998, no new arbitration claims will be accepted, thereby ceasing the arbitration program. The Exchange will continue to provide arbitration facilities for the parties involved in those cases that were filed prior to such date, but will discontinue its arbitration program when all such cases have been closed.[12]

The NASD agrees that it will accept arbitration claims from and against Phlx members after the date of October 1, 1998;[13] therefore, the Phlx is amending its Rule 950 to provide that every member, member organization, member corporation,[14] participant [15] and participant organization shall be subject to the Code for every claim, dispute, or controversy arising out of or in connection with the securities business of any member of the Exchange, including disputes outlined in Section 1, Section 6 and Section 8 of Phlx Rule 950.[16] For purposes of Rule 950, each member shall be subject to and shall abide by the Code as if such member were a ''member'' of the NASD. In

[12] Parties to cases that were filed prior to the implementation of this proposal, may, by mutual consent, determine to withdraw their claims and resubmit their claims to another forum, such as the NASD. In appropriate cases (e.g., where no arbitrator has been assigned), the Phlx will encourage them to do so by refunding applicable fees. Following the closure of open cases, the Phlx will submit a filing to the Commission eliminating all provisions contained under Phlx Rule 950, except for those provisions regarding the transfer of the program to the NASD. *See* Amendment No. 1, *supra* note 3.

[13] *See* Amendment No. 3, *supra* note 5.

[14] This term was inadvertently omitted in Amendment No.3, *supra* note 5. However, the Exchange confirmed that member corporations are subject to the Code. Telephone conversation between Nandita Yagnik, Counsel, Phlx, and Terri Evans, Attorney, Division, Commission, on September 20, 1998.

[15] This term was inadvertently omitted in Amendment No. 3, *supra* note 5. However, the Exchange clarified that participants are subject to the Code. *See* Amendment No. 4, *supra* note 6.

[16] *See* Amendment No. 2, *supra* note 4.

return, the Exchange will cover the costs incurred by the NASD in transferring data,[17] including data to be made available to the public, into the NASD's arbitration and disclosure programs.[18] The parties to any such arbitration matter, however, would be responsible to the NASD for payment of the NASD's arbitration fees. The Exchange also is proposing to amend Section 37(f) of Rule 950 to make the names of arbitrators in customer arbitration awards publicly available, in order to facilitate the NASD's administration of the arbitration claims.[19]

Because Rule 950, Section 44, requires NASD arbitration and subjects Phlx members to the Code, failure to pay a NASD arbitration award and failure to submit to NASD arbitration would be consider a violation of Phlx Rule 950. Such violations would be subject to disciplinary action under Phlx rules.[20]

In addition to terminating its arbitration program, the Exchange proposes to amend Rule 950 to combine the customer and member arbitration programs such that arbitrators for member cases will be drawn from the same pool as arbitrators for customer cases.[21] This is necessary in order to arbitrate already pending member cases. The arbitrator pool for member cases was disbanded by a proposed rule change to Phlx By-Law provisions which changed the Arbitration Committee from an arbitration pool to an advisory committee.[22]

2. Statutory Basis

The Phlx believes that the proposed rule change is consistent with Section 6(b) of the Act [23] in general, and Section 6(b)(5) of the Act [24] in particular, because the proposal provides an alternative forum for investors and members [25] to arbitrate disputes in light of the cessation of the Exchange's arbitration program.

B. Self-Regulatory Organization's Statement on the Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received at the time of the filing.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to file number SR–Phlx–98–28 and should be submitted by October 29, 1998.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission believes that the proposal is consistent with the requirements of Section 6(b) of the Act.[26] Specifically, the Commission believes the proposal is consistent with Section 6(b)(5) of the Act,[27] which requires an exchange to have rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[28] In particular, the Commission believes that the proposed rule change eliminating the Phlx's arbitration program and referring cases to the NASD for arbitration will help protect investors and the public interest by ensuring there is a fair arbitration forum available for all Phlx arbitration claims.

The Commission believes that it is consistent with the Act to allow the Phlx to send its arbitration cases to the NASD for arbitration, in part because the Phlx is no longer willing to operate the program due to the costs associated with running the program. The Commission also believes that procedurally the proposed rule change should adequately ensure that all arbitration cases that would be subject to Phlx's arbitration process will be provided for under the NASD arbitration program, by viture Phlx members being deemed ''members'' of the NASD for purposes of arbitrating any claims involving the securities business of any members of Phlx.[29] The proposed rule change accomplishes this by subject Phlx members, as of October 1, 1998, to the NASD's Code for ''every claim, dispute, or controversy, arising out of or in connection with the securities business of any member of the Exchange, including disputes outlined in Section 1, Section 6 and Section 8'' of Phlx Rule 950. In addition, the proposed rule change requires that Phlx members abide by the NASD's Code as

---

[17] In Amendment No. 3, *supra* note 5, the Exchange amended this language by deleting the reference to a contract with the NASD and by limiting costs payable by Phlx to those costs incurred in transferring data regarding Phlx arbitrators. The latter change was unintentional. The Phlx intends to cover costs incurred in transferring all data from Phlx to NASD, not just costs associated with transferring data regarding Phlx arbitrators. Therefore, notwithstanding Amendment No. 3, this sentence has been revised to reflect Phlx's agreement with the NASD. Telephone conversation between Nandita Yagnik, Counsel, Phlx, and Terri Evans, Attorney, Division, Commission, on September 30, 1998.

[18] *See* Amendment No. 3, *supra* note 5.

[19] *See* Amendment No. 1, *supra* note 3.

[20] The failure to abide by the NASD arbitration procedures by a Phlx member would trigger the disciplinary process (investigation and action pursuant to Phlx Rules 960). For example, failure to pay an arbitration award rendered pursuant to the Code would constitute a violation of Phlx Rule 950, because proposed Rule 950, Section 44, subjects Phlx members to the Code. *Id.* The Exchange intends to notify its members of the filing and approval of the proposal.

[21] *Id.*

[22] *See* Letter from Edith Hallahan, Vice President & Associate General Counsel, Phlx, to Michael Walinskas, Deputy Associate Director, Division, Commission, dated August 7, 1998 (regarding (i) withdrawal of SR–Phlx–98–06, which provided for, in part, the combination of customer and member arbitration programs, and (ii) inclusion of such provisions in SR–Phlx–98–28); Amendment No. 1, *supra* note 3; and Securities Exchange Act Release No. 38960 (August 22, 1997), 62 FR 45904 (August 29, 1997) (order granting approval to proposed rule change relating to amendments to certificate of incorporation and by-laws of the Exchange).

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] *See* Amendment No. 2, *supra* note 4.

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

[28] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[29] The Commission notes that the Phlx will cover the costs incurred by the NASD in transferring data, including data to be made available to the public, into the NASD's arbitration and disclosure programs. The parties to any such arbitration matter, however, would be responsible to the NASD for payment of the NASD's arbitration fees.

if they were members of the NASD for purposes of arbitration.

In addition, the Commission believes that the proposed rule change adequately provides for the enforcement of Phlx Rule 950, Section 44, because Phlx will continue to be responsible for the enforcement and disciplining of members regarding arbitration. A Phlx member's failure to pay an arbitration award rendered pursuant to the NASD's Code would constitute a violation of Phlx Rule 950, Section 44, since it is that rule, as amended, that subjects Phlx members to the NASD's Code. Similarly, a Phlx member's refusal to submit to arbitration pursuant to the NASD's Code would constitute a violation of Phlx Rule 950, Section 44.

Finally, the Phlx provides adequate measures for the transition from the Phlx arbitration forum to the NASD arbitration form. Even though the Phlx will no longer accept any new claims filed with the arbitration program as of October 1, 1998, it will continue to operate its program in order to administer its current, open cases and any new claims received prior to October 1, 1998. The Exchange will then discontinue its arbitration program when all such cases have been closed.[30]

The Commission also believes that the proposed rule change combining the customer and member arbitration programs helps protect the public interest by focusing the Exchange's arbitration efforts on its existing arbitration docket, including arbitrations involving member controversies. The Commission believes that the proposed rule change provides a fair procedure for members to arbitrate any dispute claim or controversy arising out of or in connection with the securities business and further notes that the proposed rule change is necessary in order to arbitrate pending member cases.

The Exchange has requested that the Commission approve the proposal prior to the thirtieth day after the date of publication of notice of the proposal in the **Federal Register.** The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register,** because the Commission believes that the proposed rule change will allow for fair arbitration of all member arbitration claims and will facilitate the processing of the Exchange's remaining arbitration cases by permitting both public customers and members to arbitrate their disputes.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[31] that the proposed rule change (SR–Phlx–98–28), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[32]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–27000 Filed 10–7–98; 8:45 am]

BILLING CODE 8010–01–M

[30] The Commission notes that the Exchange has stated that at that time it will submit a filing to the Commission to delete provisions of Rule 950, except for those provisions regarding the transfer of its arbitration program to the NASD. The Commission notes that Phlx should also not delete the part of the Phlx Rule 950, Section 39, which generally provides that it may be deemed conduct inconsistent with just and equitable principles of trade for a member, member organization or person associated with a member to fail to arbitration on demand, fail to appear or to produce any document in his possession or control as directed, or fail to honor an award of arbitrators properly rendered when required by Rule 950.

[31] 15 U.S.C. 78s(b)(2).

[32] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice No. 2901]

Overseas Security Advisory Council (OSAC) Meeting Notice; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on October 27, 28, and 29, at the State Department in Washington, D.C. Pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1) and (4), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda calls for the discussion of classified and corporate proprietary/security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Department of State, Washington, D.C. 20522–1033, phone: 202–663–0869.

Dated: September 21, 1998.

Peter E. Bergin,

Director of the Diplomatic Security Service.

[FR Doc. 98–27005 Filed 10–7–98; 8:45 am]

BILLING CODE 4710–24–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Termination of Operating Authority of Certain Foreign Air Carriers

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Order to Show Cause, Docket OST–98–4531, Order 98–10–3.

SUMMARY: The Department is inviting comments on its tentative decision to terminate the foreign air carrier permit and exemption authority held by 47 foreign air carriers. These foreign air carriers have failed to file family assistance plans with the Department and the National Transportation Safety Board, as required by the Foreign Air Carrier Family Support Act of 1997 (Act), 49 U.S.C. 41313. The Act, signed into law by the President on December 16, 1997, requires foreign air carriers to file plans for addressing the needs of families of passengers involved in an aviation disaster. The deadline for filing the plans was June 15, 1998. Since that time, the Department has taken repeated measures to notify foreign carriers of their responsibility to file their plans, and to offer assistance to the affected carriers. Of the 252 foreign air carriers required to file plans, 205 have done so. The Department believes that the continued failure of the remainder to file, particularly in the face of repeated advisories from the Department that they must do so, constitutes grounds for termination of those carriers' authority to serve the United States. Of the 47 non-filing carriers, the Department has received information that at least 32 are no longer in business, and that others no longer conduct any U.S. operations, have no near-term plans to do so, and do not oppose the termination of their authority. The 47 foreign air carriers whose authority the Department proposes to terminate are: Aero Transcolombiana de Carga Ltda.; Aerolineas Latinas, C.A.; Aeronautica de Cancun, S.A.; Aeronaves del Peru, S.A.; Air Manitoba Limited; Air Niagara Express, Inc.; Anglo Airlines Limited; Blue Scandinavia AB; Caicos Caribbean Airways Limited; Canair Cargo Ltd.; ChallengAir; Cherokee Air, Ltd.; Cleare Air Limited; Compania de Aviacion ''Faucett'', S.A.; Garuda Indonesia; General Air Cargo, G.A.C., C.A.; Interestatal de Aviacion, S.A.; Jet Air International Charters, C.A.; Jetall Holdings Corp.; Jetflight Limited; Kar-Air oy; Lineas Aereas La-Tur, S.A.; Nigeria Airways, Ltd.; Nordic European Airlines International AB; North Cariboo Flying Service Ltd.; North Coast

Air Services Ltd.; Phoenix Air Lines Ltda.; Prairie Connection Ltd.; Quassar de Mexico, S.A. de C.V.; Regal Air Limited; Rio Air Express, S.A.; Seagreen Air Transport Limited; Servicio Aereo de Honduras, S.A.; Sky Freighters Ltd.; Sociedad Aeronautica de Medellin Consolidada; Societe Nouvelle Air Martinique; Tradewinds Airways Limited; Trans European Airways France S.A.; Trans North Turbo Air Limited; Transavia Airlines, C.V.; Translift Airways Limited; Transporte de Carga Aerea Especializada y Serv.; Transportes Aereos Bolivianos; Vacationair Inc.; Venezolana Internacional de Aviacion, S.A.; Windward Islands Airways International, N.V.; and World Wide Air Charter Systems.

DATES: Objections to the issuance of a final order in this proceeding are due: October 22, 1998. If objections are filed, answers to objections are due: October 29, 1998. Persons filing pleadings should contact the Department's Foreign Air Carrier Licensing Division at the telephone number listed below for a list of persons to be served with objections and answers to objections.

ADDRESSES: All documents in this proceeding, with appropriate filing copies, should be filed in Docket OST–98–4531, addressed to Central Docket Management Facility, U.S. Department of Transportation, Room PL401, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: George Wellington, Foreign Air Carrier Licensing Division, U.S. Department of Transportation, Room 6412, 400 Seventh Street, SW, Washington, DC 20590. Telephone (202) 366–2391.

Dated: October 1, 1998.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 98–26929 Filed 10–7–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Acceptance of Noise Exposure Maps and Request for Review of Noise Compatibility Program for Kona International Airport, Kailua-Kona, HI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the Noise Exposure Maps submitted by the State of Hawaii, Department of Transportation, for the Kona International Airport, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150, are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed Noise Compatibility Program that was submitted for Kona International Airport under Federal Aviation Regulations (FAR) Part 150 in conjunction with the Noise Exposure Map, and that the Noise Compatibility Program will be approved or disapproved on or before March 24, 1999.

EFFECTIVE DATE: The effective date of the FAA's acceptance of the Noise Exposure Maps and of the start of its review of the associated Noise Compatibility Program is September 24, 1998. The public comment period ends November 16, 1998.

FOR FURTHER INFORMATION CONTACT: David J. Welhouse, Airport Planner, Honolulu Airports District Office, Federal Aviation Administration, P.O. Box 50244, Honolulu, Hawaii 96850, Telephone: (808) 541–1243. Comments on the proposed Noise Compatibility Program should be submitted to the above office. The Noise Exposure Maps reflecting this FAA action may also be reviewed at the same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the Noise Exposure Maps submitted for Kona International Airport are in compliance with applicable requirements of Federal Aviation Regulations (FAR) Part 150, effective September 24, 1998. Further, FAA is reviewing a proposed Noise Compatibility Program for that airport which will be approved or disapproved on or before march 24, 1999. This notice also announces the availability of this Noise Compatibility Program for public review and comment.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA Noise Exposure Maps which meet applicable regulations and which depict noncompliance land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted Noise Exposure Maps that are found by FAA to be in compliance with the requirements of FAR Part 150, promulgated pursuant to Title I of the Act, may submit a Noise Compatibility Program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The State of Hawaii, Department of Transportation, submitted to the FAA on December 29, 1997 Noise Exposure Maps, descriptions and other documentation which were produced during the preparation of the Kona International Airport Noise Compatibility Study dated December, 1997. It was requested that the FAA review this material as the Noise Exposure Maps, as described in Section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a Noise Compatibility Program under Section 104(b) of the Act.

The FAA has completed its review of the Noise Exposure Maps and supporting documentation submitted by the State of Hawaii, Department of Transportation. The specific maps under consideration are Figures 4–1 and 7–1 in the submission. The FAA has determined that these maps for Kona International Airport are in compliance with applicable requirements. This determination is effective on September 24, 1998. FAA's acceptance of an airport operator's Noise Exposure Maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix (A) of FAR Part 150. Such acceptance does not constitute approval of the applicant's data, information or plans, or a commitment to approve a Noise Compatibility Program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a Noise Exposure Map, submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the Noise Exposure Maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities

are not changed in any way under FAR Part 150 or through FAA's review of Noise Exposure Maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the Noise Compatibility Program for Kona International Airport, also effective on September 24, 1998. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of Noise Compatibility Programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before March 24, 1999.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, Section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the Noise Exposure Maps, the FAA's evaluation of the maps, and the proposed Noise Compatibility Program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, DC 20591

Federal Aviation Administration, Western-Pacific Region, Airports Division, AWP–600, 15000 Aviation Blvd., Room 3012, Hawthorne, California 90261

Federal Aviation Administration, Honolulu Airports District Office, 400 Ala Moana Boulevard, Room 7–128, Honolulu, Hawaii 96813

State of Hawaii, Department of Transportation, Airports Division, District Office Manager, Kona International Airport, Kailua-Kona, Hawaii 96745

State of Hawaii, Department of Transportation, Airports Division, Honolulu International Airport, 400 Rodgers Blvd., Suite 700, Honolulu, Hawaii 96819.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Hawthorne, California on September 24, 1998.

Ellsworth Chan,

Acting Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 98–27036 Filed 10–7–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Harmonization Initiatives

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: The Federal Aviation Administration and the Joint Aviation Authorities will convene a meeting to accept input from the public on the Harmonization Work Program. The Harmonization Work Program is the means by which the Federal Aviation Administration and the Joint Aviation Authorities carry out a commitment to harmonize, to the maximum extent possible, the rules regarding the operation and maintenance of civil aircraft, and the standards, practices, and procedures governing the design materials, workmanship, and construction of civil aircraft, aircraft engines, and other components. The purpose of this meeting is to provide an opportunity for the public to submit input to the Harmonization Work Program. This notice announces the date, time, location, and procedures for the public meeting.

DATES: The public meeting will be held on October 27 and October 29, 1998, starting at 10 a.m. each day. Written comments are also invited and must be received on or before October 16, 1998.

ADDRESSES: The public meeting will be held at the French Embassy, 4101 Reservoir Road, NW, Washington, DC 20007.

Persons unable to attend the meeting may mail their comments in triplicate to: Brenda Courtney, Federal Aviation Administration, Office of Rulemaking, ARM–200, 800 Independence Avenue, SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT:

Requests to attend and present a statement at the meeting or questions regarding the logistics of the meeting should be directed to Brenda Courtney, Office of Rulemaking, 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 267–3327, telefax (202) 267–5075.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration and the Joint Aviation Authorities will convene a meeting to accept input from the public on the Harmonization Work Program. The meeting will be held on October 27 and October 29, 1998 at the French Embassy, 4101 Reservoir Road, NW, Washington, DC beginning at 10 a.m. each day. The agenda will include:

October 27, 1998

Review of Action Items from the 1998 Annual Harmonization Conference General Session—Industry Issues and Concerns

October 29, 1998

FAA/JAA/Transport Canada News of Interest

General Session—Response to Industry Issues and Concerns

The French Embassy is located directly across from Georgetown Hospital. There is no metrorail transportation nearby; however, bus service is available with a stop directly across from the French Embassy. Taxi service is admitted onto the French Embassy grounds to drop off passengers, and parking is available in the French Embassy parking lot.

Individuals wishing to attend and participate in the meeting must submit name and address information to the person listed under the title **FOR FURTHER INFORMATION CONTACT** not later than October 16, 1998. The list of attendees must be submitted to the Embassy in advance of the meeting.

Participation at the Meeting

The FAA should receive requests from persons who wish to present oral statements at the public meeting no later than October 16, 1998. Such requests should be submitted to Brenda Courtney as listed in the section titled **FOR FURTHER INFORMATION CONTACT** and should include a written summary of oral remarks to be presented, and an estimate of time needed for the presentation. Requests received after the date specified above will be scheduled if time is available during the meeting; however, the name of those individuals may not appear on the written agenda.

The FAA will prepare a final agenda of speakers, which will be available at the meeting. Every effort will be made to accommodate as many speakers as possible. In addition, the amount of

time allocated to each speaker may be less than the amount of time requested.

Meeting Procedures

The following procedures are established to facilitate the meeting:

(1) There will be no admission fee or other charge to attend or to participate in the meeting. The meeting will be open to all persons who have requested in advance to present statements or who register on the day of the meeting subject to availability of space in the meeting room.

(2) There will be a morning and afternoon break and lunch break.

(3) The meeting may adjourn early if scheduled speakers complete their statements in less time than currently is scheduled for the meeting.

(4) An individual, whether speaking in a personal or a representative capacity on behalf of an organization, may be limited to a 10-minute statement. If possible, we will notify the speaker if additional time is available.

(5) The FAA will try to accommodate all speakers. If the available time does not permit this, speakers generally will be scheduled on a first-come-first-served basis. However, the FAA reserves the right to exclude some speakers if necessary to present a balance of viewpoints and issues.

(6) Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested at the above number listed under **FOR FURTHER INFORMATION CONTACT** at least 10 calendar days before the meeting.

(7) Representatives of the FAA and JAA will preside over the meeting.

(8) The FAA and JAA will review and consider all material presented by participants at the meeting. Position papers or material presenting views or information related to proposed harmonization initiatives may be accepted at the discretion of the FAA and JAA presiding officers. The FAA requests that persons participating in the meeting provide five (5) copies of all materials to be presented for distribution to the panel members; other copies may be provided to the audience at the discretion of the participant.

(9) Statements made by members of the meeting panel are intended to facilitate discussion of the issues or to clarify issues. Any statement made during the meeting by a member of the panel is not intended to be, and should not be construed as, a position of the FAA or JAA.

(10) The meeting is designed to solicit public views and more complete information on proposed harmonization initiatives. Therefore, the meeting will be conducted in an informal and nonadversarial manner. No individual will be subject to cross-examination by any other participant; however, panel members may ask questions to clarify a statement and to ensure a complete and accurate record.

Issued in Washington, DC, on September 2, 1998.

Brenda D. Courtney,

Manager, Aircraft and Airport Rules Division

[FR Doc. 98–27033 Filed 10–7–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Roswell Industrial Air Center, Roswell, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Roswell Industrial Air Center under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before November 9, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Dennis Ybarra, Manager of Roswell Industrial Air Center at the following address: Mr. Dennis B. Ybarra, AAE, Manager, Roswell Industrial Air Center, 1 Jerry Smith Circle, Roswell, NM 88201.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Roswell Industrial Air Center under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 23, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 20, 1999.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: April 1, 1999.

Proposed charge expiration date: March 1, 2002.

Total estimated PFC revenue: $210,344.00.

PFC application number: 98–01–C–00–ROW.

Brief description of proposed projects:

Projects To Impose and Use PFC's

1. ARFF Equipment
2. Taxiway B Transition Pavement Rehabilitation
3. Taxiway A Transition Pavement Rehabilitation
4. Install Taxiway Guidance Signs
5. Runway 3–21 Safety Improvements
6. Acquire Snow Removal Equipment and Distance-to-go Signs
7. Runway 3–21 Pavement Improvements
8. Airfield Safety Improvements (Phase 1)
9. Airfield Safety Improvements (Phase 2), and
10. PFC Administrative Costs

Proposed class or classes of air carriers to be exempted from collecting PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Roswell Industrial Air Center.

Issued in Fort Worth, Texas on September 24, 1998.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 98–27035 Filed 10–7–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–98–4440]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before December 7, 1998.

ADDRESSES: Direct all written comments to U.S. Department of Transportation Dockets, 400 Seventh Street, S.W., Plaza 401, Washington, D.C. 20590. Docket No. NHTSA–98–4440.

FOR FURTHER INFORMATION CONTACT: Dr. John Eberhard, Contracting Officer's Technical Representative, Office of Research and Traffic Records (NTS–31), National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1230.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

According to the Paperwork Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection will be published in the **Federal Register** after it is approved by the OMB.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information.

Older Persons' Driving and Transportation Issues

Type of Request—New information collection requirement.

OMB Clearance Number—None.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—December 31, 2000.

Summary of the Collection of Information—NHTSA proposes to conduct a survey by telephone among a nationally representative sample of 3,220 adults, including older adults. Participation by respondents would be voluntary. NHTSA's information needs require collection of information to assess the awareness of the American public concerning the mobility issues of seniors and establish benchmarks against which progress in improving seniors' safety and mobility can be assessed over time.

In conducting the proposed survey, the interviewers would use computer-aided telephone interviewing (CATI) to reduce interview length and minimize recording errors. A Spanish-language translation and bilingual interviewers are proposed to minimize language barriers to participation. The proposed survey would be anonymous and confidential.

Description of the Need for the Information and Proposed Use of the Information—The National Highway Traffic Safety Administration (NHTSA) was established to reduce the mounting number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs. The Department of Transportation, including NHTSA, has for years been extensively involved in work to support a safe transportation environment for the nation in general, and senior citizens in particular. In fact, NHTSA has had an older driver program since 1988. As the nation's population ages, the need for national-level data concerning the mobility needs of the elderly population has increased. To develop informed policy making, data are needed that not only measure current transportation practices and needs of the elderly population, but the role of the general public in (and their attitudes toward) providing transportation for the elderly who cannot—or should not—continue driving.

So that Federal transportation policy makers, as well as professionals involved in the whole array of elderly issues, can make informed decisions concerning transportation policy (e.g., the allocation of resources, critical target audiences, etc.), a database that is easily accessible by such individuals is needed. Additionally, because the elderly population will continue to grow, and therefore so will the needs for alternatives to driving for this population segment, a database is needed that will serve as a benchmark against which to measure progress in meeting the mobility needs of the elderly.

Description of the Likely Respondents (Including Estimated Number and Proposed Frequency of Response to the Collection of Information)—Under this proposed effort, a telephone interview averaging approximately twenty minutes in length would be administered to each of 3,220 randomly selected members of the general public aged sixteen and older in telephone households. The respondent sample would be selected from all fifty states plus the District of Columbia. Interviews would be conducted with persons at residential phone numbers selected through random digit dialing. Businesses are ineligible for the sample and would not be interviewed. There

would be only one interview per respondent.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting From the Collection of Information—NHTSA estimates that each respondent in the sample would require an average of twenty minutes to complete the telephone interview. Thus, the number of estimated reporting burden hours a year on the general public (3,220 respondents multiplied by 1 interview multiplied by 20 minutes) would be 1,074 for the proposed survey. The respondents would not incur any reporting cost from the information collection. The respondents also would not incur any record keeping burden or record keeping cost from the information collection.

Issued on: October 2, 1998.

James Nichols,

Acting Associate Administrator for Traffic Safety Programs.

[FR Doc. 98–27049 Filed 10–7–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[DP98–007]

Denial of Motor Vehicle Defect Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30162, requesting that the agency commence a proceeding to determine the existence of a defect related to motor vehicle safety. The petition is hereinafter identified as DP98–007.

FOR FURTHER INFORMATION CONTACT: Dr. George Chiang, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–5206.

SUPPLEMENTARY INFORMATION: Mr. Frank Czajka of Wilmington, Delaware, submitted a petition dated July 24, 1998, requesting that an investigation be initiated to determine whether Model Year (MY) 1996 Mercury Grand Marquis vehicles contain a defect related to motor vehicle safety within the meaning of 49 U.S.C. Chapter 301. The petitioner alleges that the head restraint on his MY 1996 Mercury Grand Marquis, positioned in the highest position, was not high enough to protect him from neck injuries during a rear impact collision.

A review of agency data files, including information reported to the Auto Safety Hotline by consumers, indicated that there was only one complaint on head restraints on the subject vehicles. This complaint, which was submitted by the petitioner in December of 1997, concerned neck injuries allegedly sustained in a crash because of inadequate head restraint protection. There were no head restraint related complaints for either the MY 1995 or the MY 1997 Mercury Grand Marquis vehicles.

Section S4.3(b)(1) of Federal Motor Vehicle Safety Standard (FMVSS) No. 202, ''Head Restraints,'' requires that the top of the head restraint, when adjusted to its fully extended design position, shall not be less than 27.5 inches above the seating reference point (SRP), when measured parallel to torso line.

On September 2, 1998, an ODI staff member inspected a subject vehicle and found that the top of the head restraint was approximately 27.5 inches above the SRP with the head restraint in its stowed position, and 29.0 inches above the SRP with the head restraint adjusted to its fully extended position, when measured parallel to torso line (precise measurement of the SRP location was not possible on an installed driver seat, because the seat track, used to locate the SRP, was partially obstructed by the vehicle structure and the seat cushion). Ford Motor Company's FMVSS No. 202 compliance data verified that for the subject vehicles, the driver seat head restraint met the requirement of Section S4.3 (b)(1) of the Standard. Specifically, the top of the head restraint was measured to be 29.9 inches above the SRP with the head restraint adjusted to its fully extended position, when measured parallel to torso line.

In view of the foregoing, it is unlikely that NHTSA would issue an order for the notification and remedy of a safety-related defect in the subject vehicles at the conclusion of the investigation requested in the petition. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: September 29, 1998.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 98–27025 Filed 10–7–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33667]

Durbin & Greenbrier Valley Railroad—Operation Exemption—West Virginia Central Railroad

Durbin & Greenbrier Valley Railroad (D&GVR), a noncarrier, has filed a verified notice under 49 CFR 1150.31 to operate 131.3 miles of rail line owned by West Virginia State Rail Authority (WVSRA), known as West Virginia Central Railroad (WVCR). The rail line extends from a junction with CSX Transportation, Inc. (CSXT), at Tygart Junction (milepost 0.0) to Bergoo (milepost 121.7), and includes a branch line, known as the Dailey Branch, extending from Elkins (milepost 0.0) to Dailey (milepost 9.6), located in Barbour, Randolph, Pocahontas and Webster Counties, WV. D&GVR will replace CSXT, which has been operating over a portion of the line, and will become a Class III rail carrier.[1]

The exemption became effective September 29, 1998. The parties stated that D&GVR will commence operations on the line on October 3, 1998, or 7 days after the filing of this notice, whichever is later.

On September 3, 1998, D&GVR enter into an operating agreement with WVSRA to provide freight and passenger services over the WVCR for a period of five years with renewal options. The agreement gives D&GVR the right to provide routine maintenance-of-way, rolling stock, personnel, and facilities to provide these services. In addition, D&GVR is expected to restore service over the Dailey branch, which currently is out-of-service, should traffic be developed for that portion of the line.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33667, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925

[1] WVRSA acquired this line from CSXT in 1997. *See CSX Transportation, Inc.—Abandonment—In Barbour, Randolph, Pocahontas and Webster Counties, WV,* Docket No. AB–55 (Sub-No. 500) (ICC served Jan. 9, 1997). CSXT currently operates over a portion of the line under an agreement with WVSRA which will terminate on October 2, 1998.

D&GVR states that the projected revenues will not exceed those that would qualify it as a Class III rail carrier.

K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Stephen L. Day, Esq., Betts, Patterson & Mines, P.S., 1215 Fourth Avenue, Suite 800, Seattle, WA 98161–1090.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: October 1, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–27048 Filed 10–7–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33644]

Tongue River Railroad Company, Inc.—Acquisition and Operation Exemption—Tongue River Railroad Company

Tongue River Railroad Company, Inc. (TRRC Inc.), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 and 49 CFR 1150.35 to acquire from Tongue River Railroad Company (Partnership),[1] Partnership's existing transportation assets, including the previously issued Interstate Commerce Commission and the Board permits to construct and operate lines of railroad between Miles City and Decker/Spring Creek, MT (line). Once constructed, TRRC Inc. will operate approximately 120 route miles from milepost 0.0 at Miles City, to Spring Creek, which will be milepost 114.8, if constructed over the Western Alignment,[2] or milepost 126.9, if constructed over the Four Mile Creek Alternative.[3] The line will also include the Otter Creek Spur, running from milepost 68.3, at Ashland, MT, to Terminus Point #2, approximately 7.7 miles southeast of Ashland in the Otter Creek Drainage. TRRC Inc. will become a Class II rail carrier upon commencement of operations.[4]

Pursuant to 49 CFR 1150.35(a), TRRC Inc. must comply with the notice requirement of 49 CFR 1150.32(e). TRRC Inc. certified to the Board, on September 18, 1998, that it had complied with the notice requirements of section 1150.32(e) on September 4, 1998. This notice must be provided at least 60 days before the exemption becomes effective. Therefore, the earliest the transaction can be consummated is November 17, 1998, the effective date of the exemption (60 days after TRRC Inc.'s September 18, 1998 certification to the Board).[5]

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.[6]

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33644, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Mike T. Gustafson, Esq., 550 North 31st Street, Suite 250, Billings, MT 59101.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: October 2, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–27047 Filed 10–7–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 126X)]

Union Pacific Railroad Company—Abandonment Exemption—in Jefferson County, WI

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to abandon and discontinue service over a 2.0-mile line of railroad on the Clyman Branch from the end of the line at milepost 110.0 to milepost 112.0 near Fort Atkinson, in Jefferson County, WI. The line traverses United States Postal Service ZIP Code 53538.[1]

UP has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and

[1] All of the common stock of TRRC Inc. will be owned by Partnership, which is a Montana limited partnership. The sole stated purpose of the transaction is to convert the entity that will construct and operate the Tongue River Railroad Company from a partnership to a corporation in order to facilitate certain transactions that will need to be undertaken in order to exercise the construction and operation authority previously granted in *Tongue River Railroad Company—Rail Construction and Operation—in Custer, Powder River and Rosebud Counties, MT,* Finance Docket No. 30186, *et al.* (ICC served May 9, 1986) and *Tongue River Railroad Co.—Rail Construction and Operation— Ashland to Decker, Montana,* Finance Docket No. 30186 (Sub-No. 2) (ICC served Nov. 8, 1996) (the 1996 decision).

[2] Authority to construct over the Western Alignment is the subject of the pending application in *Tongue River Railroad Company—Construction and Operation—Western Alignment,* STB Finance Docket No. 30186 (Sub-No. 3).

[3] The Board granted Partnership authority to construct over the Four Mile Creek Alternative in the 1996 decision.

[4] TRRC Inc. represents that The Burlington Northern and Santa Fe Railway Company may be the operator of the property if an agreement can be reached between the parties.

[5] While TRRC Inc. and Partnership maintain that there are no employees currently employed by either company and that 49 CFR 1150.32(e) and 1150.35(c)(3) have no applicability to the transaction, they have not specifically requested a waiver of the compliance requirements for those sections in their verified notice of exemption.

[6] The City of Forsyth, MT, the United Transportation Union-Montana State Legislative Board and the United Transportation Union-General Committee of Adjustment (GO–386), two subordinate units of the United Transportation Union (Forsyth/UTU), and the Northern Plains Resource Council Inc., have filed petitions to stay the operation of the notice of exemption. Forsyth/UTU has also filed a petition to reject the notice of exemption and/or to revoke the exemption. These petitions are pending before the Board and will be addressed in a subsequent decision.

[1] UP previously received abandonment authority for the 2.0-mile line segment in *Union Pacific Railroad Company—Abandonment Exemption—in Jefferson County, WI,* STB Docket No. AB–33 (Sub-No. 111X), (STB served June 26, 1997). The June 26 notice stated that ''If consummation has not been effected by UP's filing of a notice of consummation by June 26, 1998, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.'' Also, by decision served July 24, 1997, the abandonment was made subject to environmental conditions that UP shall: (a) consult with the National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying the three geodetic markers identified by NGS that might be affected by the abandonment; and (b) comply with the State of Wisconsin Abandoned Railroad Line Salvage and Clean-up Procedures and consult with the Wisconsin Department of Transportation concerning permits for salvage operations at state highway-railroad at-grade crossings. Because UP did not consummate the abandonment prior to June 26, 1998, the authority to abandon expired. Hence, UP has filed this new notice of exemption to cover the same 2-mile line.

49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment— Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 7, 1998, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 19, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 28, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Joseph D. Anthofer, General Attorney, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

UP has filed an environmental report which addresses the effects of the abandonment, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 13, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by October 8, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: October 1, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–26776 Filed 10–7–98; 8:45 am]

BILLING CODE 4915–00–P

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. § 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, NW, Washington, DC, on October 27, 1998, of the following debt management advisory committee: The Bond Market Association, Treasury Borrowing Advisory Committee.

The agenda for the meeting provides for a technical background briefing by Treasury staff, followed by a charge by the Secretary of the Treasury or his designate that the committee discuss particular issues, and a working session. Following the working session, the committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 9:00 a.m. Eastern time and will be open to the public. The remaining sessions and the committee's reporting session will be closed to the public, pursuant to 5 U.S.C. App. Section 10(d).

This notice shall constitute my determination, pursuant to the authority placed in heads of departments by 5 U.S.C. App. Section 10(d) and vested in me by Treasury Department Order No. 101–05, that the closed portions of the meeting are concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires, frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. Section 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

The Office of the Assistant Secretary for Financial Markets is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: October 5, 1998.

Gary Gensler,

Assistant Secretary (Financial Markets).

[FR Doc. 98–27016 Filed 10–7–98; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Performance Review Board

AGENCY: Department of the Treasury.

ACTION: Notice.

SUMMARY: This notice lists the membership to the Departmental Offices' Performance Review Board (PRB) and supersedes the list published in **Federal Register** 41132, Vol. 62, No. 147, dated July 31, 1997, in accordance with 5 U.S.C. 4314(c)(4). The purpose of the PRB is to review the performance of members of the Senior Executive Service and make recommendations regarding performance ratings, performance awards, and other personnel actions.

The names and titles of the PRB members are as follows:

Joan Affleck-Smith
Director, Office of Financial Institutions Policy
Steven O. App
Deputy Chief Financial Officer
John H. Auten
Director, Office of Financial Analysis
Robert A. Bean
Deputy Assistant Secretary (Appropriations and Management)

Elisabeth A. Bresee
Assistant Secretary (Enforcement)
Richard S. Carnell
Assistant Secretary (Financial Institutions)
Theodore N. Carter
Deputy Assistant Secretary (Management Operations)
Joyce H. Carrier
Deputy Assistant Secretary (Public Liaison)
Mary E. Chaves
Director, Office of International Debt Policy
Lynda de la Vina
Deputy Assistant Secretary (Policy Coordination)
Kay Frances Dolan
Deputy Assistant Secretary (Human Resources)
Lowell Dworin
Director, Office of Tax Analysis
Joseph B. Eichenberger
Director, Office of Multilateral Development Banks
James H. Fall, III
Deputy Assistant Secretary (Technical Assistance Policy)
James J. Flyzik
Deputy Assistant Secretary (Information Systems and Chief Information Officer)
Michael B. Froman
Chief of Staff
John M. Gaaserud
Director, U.S. Saudi Arabian Joint Commission Program
Gary Gensler
Assistant Secretary (Financial Markets)
Timothy F. Geithner
Assistant Secretary (International Affairs)
Geraldine A. Gerardi
Director of Business Taxation
Ronald A. Glaser
Director, Office of Personnel Policy
Donald V. Hammond
Deputy Fiscal Assistant Secretary
James E. Johnson
Under Secretary (Enforcement)
Nancy Killefer
Assistant Secretary (Management and Chief Financial Officer)
Edward S. Knight
General Counsel
David A. Lebryk
Assistant Fiscal Assistant Secretary
Margrethe Lundsager
Deputy Assistant Secretary (Trade and Investment Policy)
Mark C. Medish
Deputy Assistant Secretary (Eurasia and Middle East)
Carl L. Moravitz
Director, Office of Budget
Shelia Y. McCann
Deputy Assistant Secretary (Administration)
Lisa G. Ross
Deputy Assistant Secretary (Strategy and Finance)
Howard M. Schloss
Assistant Secretary (Public Affairs)
G. Dale Seward
Director, Automated Systems Division
Mary Beth Shaw
Director, Office of Financial Management
John P. Simpson
Deputy Assistant Secretary (Regulatory, Trade, and Tariff Affairs)
Jane L. Sullivan
Director, Information Technology Policy and Management
Jonathan Talisman
Deputy Assistant Secretary (Tax Policy)
David W. Wilcox
Assistant Secretary (Economic Policy)

FOR FURTHER INFORMATION CONTACT: Tracy Ware, Executive Secretary, PRB, Room 1462, Main Treasury Building, 1500 Pennsylvania Avenue, NW, Washington, DC 20220. Telephone: (202) 622–1460. This notice does not meet the Department's criteria for significant regulations.

Nancy Killefer,

Assistant Secretary of the Treasury, Management and Chief Financial Officer.

[FR Doc. 98–27008 Filed 10–7–98; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Community Development Financial Institutions Fund (the Fund) within the Department of the Treasury is soliciting comments concerning the Community Development Financial Institutions (CDFI) Program.

DATES: Written comments should be received on or before December 7, 1998 to be assured of consideration.

ADDRESSES: Direct all comments to the Director, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, Fax Number (202) 622–7754.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, or call (202) 622–8662.

SUPPLEMENTARY INFORMATION:

Title: Community Development Financial Institutions Program.

OMB Number: 1505–0154.

Abstract: The purpose of the Community Development Banking and Financial Institutions Act of 1994 (Act) was to create the Fund to promote economic revitalization and community development through investment in and assistance to Community Development Financial Institutions (CDFIs). The investments by the CDFI Program are intended to facilitate the creation of a national network of financial institutions that is dedicated to community development.

Current Actions: The Fund is in the process of modifying reporting requirements placed on its awardees. Currently, the Fund collects from its CDFI Program awardees financial and programmatic information in the form of quarterly and annual reports five times a year pursuant to its regulations. The Fund needs to collect additional data from such awardees to evaluate the impact of the CDFI Program and awardees. Congress, regulations and the Fund's statute require the Fund to collect impact information. The Fund is also in the process of developing a recertification process. Currently, CDFIs are certified for two years, and the initial certifications granted in 1996 will expire at the end of this calendar year. The collection of information connected with the recertification process will be a smaller collection than the original certification application.

Type of review: Extension with change.

Affected Public: Community development financial institutions.

Estimated Number of Respondents: Core and Intermediary, 150; Technical Assistance, 125; Certification Only and Recertification, 135.

Estimated Number of Recordkeepers (Core, Intermediary and Technical Assistance): 225.

Estimated Annual Frequency of Responses (all applications): 1.

Estimated Annual Frequency of Reporting and Recordkeeping (Core,

Intermediary and Technical Assistance): 1–6.

Estimated Annual Time Per Respondent: Core and Intermediary, 100 hours; Technical Assistance, 50 hours; Certification Only, 15 hours; Recertification, 7 hours.

Estimated Annual Time Per Recordkeeper: 36–51 hours.

Estimated Total Annual Burden Hours: 32,570 hours.

Requests for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Authority: 12 U.S.C. 4703, 4717; chapter X, Pub.L. 104–19, 109 Stat. 237 (12 U.S.C. 4703 note), 12 CFR part 1805.

Dated: October 5, 1998.

Maurice A. Jones,

Deputy Director of Policy and Programs, Community Development Financial Institutions Fund.

[FR Doc. 98–27059 Filed 10–7–98; 8:45 am]

BILLING CODE 4810–70–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of Open Meeting of Citizen Advocacy Panel

SUMMARY: An open meeting of the Citizen Advocacy Panel will be held in Sunrise, Florida.

DATES: The meeting will be held Friday, October 23, 1998 and Saturday, October 24, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy Ferree at 1–888–912–1227, or 954–572–6231.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Citizen Advocacy Panel will be held Friday, October 23, 1998 from 6:00 pm to 9:00 pm and Saturday, October 24, 1998 from 9:00 am to 12 Noon, in Room 225, CAP Office, 7771 W. Oakland Park Blvd., Sunrise, Florida 33351. The public is invited to make oral comments from 10:00 am to 11:00 am on Saturday, October 24, 1998. Individual comments will be limited to 10 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 954–572–6231, or write Nancy Ferree, CAP Office, 7771 W. Oakland Park Blvd. Rm. 225, Sunrise, FL 33351. Due to limited conference space, notification of intent to attend the meeting must be made with Nancy Ferree. Ms. Ferree can be reached at 1–888–912–1227 or 954–572–6231.

The agenda will include the following: various IRS issue updates and reports by the CAP sub-groups.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: September 30, 1998.

Mary Ellen Ledger,

Designated Federal Official.

[FR Doc. 98–27054 Filed 10–7–98; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES INFORMATION AGENCY

NIS Training Program for Russia, Ukraine, Belarus, Moldova, Georgia, Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, and Uzbekistan

ACTION: Request for proposals.

SUMMARY: The Russia/Eurasia Division of the Office of Citizen Exchanges of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. U.S. public and private non-profit organizations meeting the provisions described in IRS regulations 26 CFR 1.501(c) may submit proposals to develop training programs. Grants are subject to the availability of funds.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through the Fulbright-Hays Act and the Freedom Support Act.

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package.

Announcement Title and Number: All correspondence with USIA concerning this RFP should reference the above title and number *E/PN–99–10.*

Deadline for Proposals: All proposal copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on December 30, 1998. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted.

FOR FURTHER INFORMATION, CONTACT: The Russia/Eurasia Division, Office of Citizen Exchanges, (E/PN), Room 224, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, attn: Cassandra Barber, tel: 202–619–5327 and fax: 202–619–4350 or Internet address: cbarber@usia.gov, to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions and standards guidelines for proposal preparation.

To Download a Solicitation Package via Internet: The entire Solicitation Package may be downloaded from USIA's website at http://ww.usia.gov/education/rfps. Please read all information before downloading.

To Receive a Solicitation package via FAX on Demand: The entire Solicitation Package may be requested from the Bureau's ''Grants Information Fax on Demand System,'' which is accessed by calling 202/401–7616. The ''Table of Contents'' listing available documents and order numbers should be the first order when entering the system.

Please specify USIA Program Officer Cassandra Barber on all inquiries and correspondence. Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition with applicants until the proposal review process has been completed.

Submission: Applicants must follow all instructions in the Solicitation Package. The original and ten (10) copies of the application should be sent to: U.S. Information Agency, Ref.: *E/PN–*

99–10. Office of Grants Management, E/XE, Room 326, 301 4th Street, SW, Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support of Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy.'' USIA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

Program Information

Overview

USIA is interested in proposals that encourage the growth of democratic institutions in Russia, Ukraine, Belarus, Moldova, Georgia, Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, and Uzbekistan. Exchanges and training programs supported by Office of Citizen Exchanges institutional grants should operate at two levels: they should enhance institutional relationships; and they should offer practical information to individuals to assist them with their professional responsibilities. Strong proposals usually have the following characteristics: An existing partner relationship between an American organization and an in-country institution in one of the countries targeted in this announcement; a proven track record of conducting program activity; cost-sharing from American or in-country sources, including donations of air fares, hotel and/or housing costs, experienced staff with language facility; and a clear, convincing plan showing how permanent results and continuing activity will be implemented as a result of the activity funded by the grant. USIA wants to see tangible forms of time and money contributed to the project by the prospective and American and NIS grantee institutions, as well as funding from third party sources.

Unless otherwise specified below, project activity may include: Internships; study tours; short-term training; consultations; and extended, intensive workshops taking place as a two-way exchange in the United States and in Russia, Ukraine, Belarus, Moldova, Georgia, Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, and Uzbekistan. Proposals should reflect the applicants' understanding of the political, economic, and social environment in which the program activity will take place. Program designs based on a one-way exchange will be considered under circumstances where the proposal outlines as exceptional program.

USIA encourages applicants to design programs for non-English speakers. Programs can take place in the United States or in the target countries. USIA is interested in proposals whose designs take into account the need for ongoing sharing of information, training and concrete plans for self-sustainability. Examples include: support for training centers in the target countries; plans to create professional networks or professional associations to share information; establishing ongoing internet communication; and/or train the trainers models.

USIA will consider proposals that respond to the following country-specific topics for the countries listed in this announcement:

Women's Leadership Training

Women's Leadership Programs for Russia, Ukraine, Belarus and Moldova

Over the past decade women and women's groups in many countries in Newly Independent States have come forth as the leaders in grassroots activism and have been the cornerstone of social development. Women's groups have shown their willingness to cooperate and coordinate with organizations both in the NIS and the West. Women have begun to take their place in the political arena, in NGO development, and in advocacy groups. The dedication and commitment of women's groups have contributed to democratic and civil values taking root in the region. USIA recognizes, however, that there are many places where women's groups are still nascent and thus need basic organizational and leadership training, just as there are other regions where women's organizations are at a different stages of development, requiring more sophisticated programs.

USIA is looking for proposals that offer leadership training to women active in their communities in Russia, Ukraine, Belarus, and Moldova. In each country, programs should target women in the outlying regions and not focus on capital cities. The thrust of the training programs should be on identifying priorities, creating organizational and work plans, forming networks and coalitions, and advocacy training regarding specific issues important to their local communities and regions. Proposals are not limited to a one-country focus. They may address building regional associations and networks among women's organizations in several countries. For projects with Belarusan and Moldovan women's organizations, USIA will also consider project proposals that build bridges between women's groups in Central European countries, particularly Poland and Romania.

Prospective grantee institutions should identify the NIS local organizations and individuals with whom they are proposing to collaborate and describe in detail previous cooperative programming and contacts. Detailed information about the NIS organizations' activities and accomplishments in their own communities is also required. Program activity may take place either in the target countries and/or in the United States. These programs are intended to provide NIS women and women's groups opportunities to capitalize on their potential and to strengthen their collective voice in the political, social and democratic arena.

Women's Leadership Programs for Armenia, Azerbaijan, and Georgia

USIA is also interested in training programs for women leaders from the Caucasus region. The issues described in the above section on Russia, Ukraine, Belarus, and Moldova, largely apply to the Caucasus region. Programs should be designed to reflect these concerns. USIA is particularly interested in training proposals that have a regional focus: linking women together in the three countries of the Caucasus region.

Women's Leadership Programs for Kazakhstan, Kyrgyzstand, and Uzbekistan

Again, the same general concerns regarding the status and role of women apply to these three Central Asian countries. Women in Central Asia are eager to work at the grassroots level to effect change in their communities.

For Organizations Which Received USIA Funding for Women's Leadership Training in FY98

USIA welcomes proposals from organizations which received FY98 funding to continue and extend the activity on current USIA Women's Leadership Programs. These follow-on proposals should outline a plan for implementing a more advanced phase of the program with an emphasis on true sustainability. Such proposals should also include an exchange component to complement in-country training programs.

For Russia and Ukraine

Prevention of Trafficking in Women

Trafficking of women and girls from the NIS has grown at an alarming rate. The U.S. Government is seeking to assist NIS governments and NGOs in the region to address the problem by: (1) Educating young women and girls about trafficking so that they will not fall victim to traffickers' tactics of coercion, fraud and deceit; (2) providing protection and assistance for victims; (3) enhancing the capability of law enforcement officials to combat trafficking.

Public attention in these countries is increasingly focused on this serious problem. Information campaigns, including the production and distribution of informational materials are seeking to inform the public about this issue. A major interagency initiative is underway in Ukraine. Efforts in other NIS countries are still nascent. USIA is seeking creative proposals which are designed to assist people in the region to meet the goals stated above: prevention, protection and prosecution. Proposals which show a strong knowledge about efforts that have already been implemented, which show an ability to integrate or otherwise use existing materials and human resources, and which outline a concrete plan for innovative programming with proven experience on the ground and the ability to reach populations in outlying regions are strongly encouraged. USIA is particularly interested in proposals which build an indigenous capacity to address the issue. Proposals developed in partnership with local NIS organizations will be given priority.

For Russia

Distance Learning in the Field of Business Management

USIA is looking for proposals that establish or expand distance learning programs in business and management at Russian universities or institutes outside of Moscow. Programs which create new or continue existing partnerships with institutions participating in the Yeltsin Presidential Management Training Initiative (PMTI) will receive special consideration, in particular, the following institutions:

Mordova State University
Stavropol State Technical University
Udmurtia State University
Bashkir Consortium (Bashkir Academy of State Service, Ufa State University)
Petrozavodsk State University
Omsk State University
Krasnoyarsk State University
Kuzbass Consortium (Kemerovo State University)
Ulyanovsk State University
Yaroslavl State University
Krasnodar Kray Consortium (Krasnodar Institute of Agrobusiness, Kuban State University)
Perm State University
Ryazan State Radio-Technical Academy

The beneficiaries of such a program would be both students and business people already working for Russian enterprises. Specific programs could include the delivery of management and business content through low-end technologies such as e-mail, CD Rom, video or text-based Internet, so that the project model might be replicated in other regions. Travel to the United States by Russian providers and travel to Russia by American course organizers is an essential component of these programs. Proposals should address in detail: technical requirements for delivery of business/management content through distance learning mechanisms, training requirements for instructors and faculty on utilization of the media (i.e., train the trainers), integration of appropriate print materials with a specific distance learning approach, and language of instruction issues. Modest purchases of equipment and software is acceptable in a proposal, subject to negotiations with USIA.

Proposals should demonstrate Russian institutional commitment (written letters of support) and tangible Russian cost-sharing in such things as space, security, salaries, and support for visiting Americans (local housing and transportation). Interested American organizations should plan trips to Russia of at least two weeks in duration to start programs and to monitor progress. Short-term visits of a few days duration are discouraged. Successful grantee institutions will be expected to consult closely with USIA and USIS Moscow to determine a list of final partner institutions.

For Russia

Management and Financial Reform of Russian Universities

Russian universities need advice on how to overhaul their own management structures to prepare for a fast approaching future of vanishing state and regional government subsidies. USIA is looking for proposals from U.S. institutions of higher learning with strong partnerships with Russian universities or with U.S. educational organizations with relevant experience in providing strategic advice to American educational institutions to work with Russian universities in designing strategies to become financially solvent. These could include strategies such as continuing education and other services to the local business community; licensing and commercialization of intellectual product; textbook publishing and software development; contract services to government; ongoing access to advice through the world wide web and other sources of support, and other sources of revenue generation. Practical ''nuts and bolts'' topics should also be considered: proper budgeting; collection of tuition and fees; long-range financial planning; creation of endowments. Proposals should not duplicate activities underwritten by the Soros Foundation or other Western funders engaged in educational reform in Russia.

For Russia and Ukraine

Ethics of the Public Sector

Government employees in Russia and Ukraine suffer a litany of ills: Low salaries which are rarely paid; difficult working conditions; lack of support from political leaders and senior administrators; and out-of-date equipment and records. For their part, citizens expect public servants to be unresponsive at best, and corrupt at worst. Education is needed for both the public and civil servants on what each can expect of the other. For the government side, this could include training in public relations, discussion of ethical standards, and strategies for improving government procedures. Citizen action could be encouraged in monitoring government performance, working through channels (rather than offering bribes), and lobbying elected leaders to create responsive, honest, and open government structures. Proposals should include training for public sector employees as well as concerned citizens, in separate and mixed groups, with participation of elected officials also desirable. While existing Russian and Ukrainian NGOs active in civic

affairs would be logical partners in this program, proposals which envision the creation of NGOs will be considered if the grantee can demonstrate success in grassroots organizing in Russia. Other possible partners would be schools, media, and business associations.

Visa Regulations

Foreign participants on programs sponsored by the Office of Citizen Exchanges Programs are granted J–1 Exchange Visitor visas by the U.S. Embassy in the sending country. All programs must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

Project Funding

Since USIA grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other sources of financial and in-kind support. Proposals with substantial private sector support from foundations, corporations and other institutions will be considered highly competitive.

Applicants are encouraged to submit proposals not to exceed $120,000. Because of the complexity of the Distance Learning Program, however USIA will consider funding in the $150,000–$200,000 range for initiatives addressing that topic. Organizations with less than four years of experience in managing international exchange programs are limited to $60,000. Applicants are invited to provide both an all-inclusive budget as well as separate sub-budgets for each program component, phase, location or activity in order to facilitate USIA decisions on funding. While a comprehensive line item budget based on the model in the Solicitation Package must be submitted, separate component budgets are optional.

The following project costs are eligible for consideration for funding:

1. International and domestic air fares; visas; transit costs; ground transportation costs.

2. Per Diem. For the U.S. program, organizations have the option of using a flat $160/day for program participants or the published U.S. Federal per diem rates for individual U.S. cities. For activities outside of the U.S., the published Federal per diem rates must be used. NOTE: U.S. escorting staff must use the published Federal per diem rates, not the flat rate. Per diem rates may be accessed at http://www.policyworks.gov/.

3. Interpreters: If needed, interpreters for the U.S. program are provided by the U.S. State Department Language Services Division. Typically, a pair of simultaneous interpreters is provided for every four visitors who need interpretation. USIA grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain a flat $160/day per diem for each Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter plus any U.S. travel expenses during the program. Salary expenses are covered centrally and should not be a part of the applicant's proposed budget.

4. Book and cultural allowance. Participants are entitled to and escorts are reimbursed a one-time cultural allowance of $150 per person, plus a participant book allowance of $50. U.S. Staff do not receive these benefits.

5. Consultants. Consultants may be used to provide specialized expertise or to make presentations. Daily honoraria generally do not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal.

6. Room rental. Room rental should not exceed $250 per day.

7. Materials development. Proposals may contain costs to purchase, develop and translate materials for participants.

8. One working meal per project. Per Capita costs may not exceed $5–$8 for a lunch and $14–$20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one.

9. A return travel allowance of $70 may be provided to each participant to be used for incidental expenditures during international travel.

10. All USIA-funded delegates will be covered under the terms of USIA-sponsored health insurance policy. The premium is paid by USIA directly to the insurance company.

11. Administrative Costs. Other costs necessary for the effective administration of the program including salaries for grant organization employees, benefits and other direct and indirect costs as described in the detailed instructions in the application package. While this announcement does not proscribe a rigid ratio of administrative to program costs, in general, priority will be given to proposals whose administrative costs are less than twenty-five (25) percent of the total requested from USIA. Proposals should show cost-sharing, including both contributions from the applicant and from other sources.

Please refer to the Application Package for complete budget guidelines.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the USIA Office of East European and NIS Affairs and the USIA post overseas, where appropriate. Eligible proposals will be forwarded to panels of USIA officers for advisory review. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Final funding decisions are at the discretion of USIA's Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered.

1. Program Planning and Ability To Achieve Objectives

Program objectives should be stated clearly and precisely and should reflect the applicant's expertise in the subject area and the region. Objectives should respond to the priority topics in this announcement and should relate to the current conditions in the included countries. Objectives should be reasonable and attainable. A detailed work plan should explain step by step how objectives will be achieved, including a timetable for completion of major tasks and activities and an outline of the selection process. The substance of the seminars, presentations, workshops, consulting, internships and itineraries should be spelled out in detail. Responsibilities of in-country partners should be clearly described.

2. Multiplier Effect/Impact

Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

3. Support of Diversity

Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up

sessions, program meetings, resource materials and follow-up activities).

4. Institutional Capability

Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The narrative should demonstrate proven ability to handle logistics. Proposals should reflect the institution's expertise in the subject area and knowledge of the conditions in the targeted region(s).

5. Follow-on Activities

Proposals should provide a plan for continued follow-on activity (without USIA support) ensuring that USIA supported programs are not isolated events.

6. Project Evaluation

Proposals should include a plan and methodology to evaluate the program's successes, both as activities unfold and at the end of the program. USIA recommends that the proposals include a draft survey questionnaire or other technique plus description and/or plan for use of another measurement technique (such as a focus group) to link outcomes to original project objectives.

7. Cost-Effectiveness and Cost Sharing

Overhead and administrative costs in the proposal, including salaries, subcontracts for services and honoraria, should be kept low. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Notice: The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements. Organizations will be expected to cooperate with USIA in evaluating their programs under the principles of the Government Performance and Results Act of 1993, which requires federal agencies to measure and report on the results of their programs and activities.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: October 2, 1998.

Judith Siegel,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 98–27032 Filed 10–7–98; 8:45 am]

BILLING CODE 8230–01–M

UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

Notice of Availability of the Draft Environmental Assessment for the Construction of the Diamond Fork Campground; Utah County, UT

AGENCY: The Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission) and the Spanish Fork Ranger District of the Uinta National Forest, U.S. Department of Agriculture.

ACTION: Notice of availability of the draft environmental assessment.

SUMMARY: The U.S. Bureau of Reclamation (Reclamation) issued a Final Environmental Impact Statement (EIS) in 1984 and a Final Supplement to the Final EIS in 1990 for the Diamond Fork System recommending among other things, the construction of a campground and associated recreation facilities in Diamond Fork Canyon to mitigate for camping facilities impacted by the construction activities and to provide recreational opportunities for growing populations along the Wasatch Front.

The Spanish Fork Ranger District of the Uinta National Forest and the Mitigation Commission released an Environmental Assessment (EA) dated February 23, 1997, describing the environmental effects of a proposal to redesign and upgrade the existing Diamond and Palmyra campgrounds. Based on public and agency input, the Spanish Fork Ranger District and the Mitigation Commission have revised the EA to incorporate a new alternative that responds to concerns raised. The new proposal would rehabilitate the existing Diamond and Palmyra Campgrounds, yet reduce the capacity approximately by 33%. This is a significant change from the previous proposal where the campground capacity would have been increased by approximately 46%. This change in the proposal reduces the impacts on riparian vegetation and minimizes the potential impacts on future stream restoration efforts. These were the two primary concerns raised by agencies and the public during the initial release of the EA.

A pre-decisional EA was prepared jointly by the U.S. Forest Service and the Commission and released for public review on September 28, 1998. A 30-day public comment period closed on October 28, 1998.

DATES: Comments are most useful if received by October 28, 1998.

FOR FURTHER INFORMATION CONTACT: Copies of the the Draft EA or Executive Summary can be obtained at the address and telephone number below: Richard Mingo, Natural Resource Specialist, Utah Reclamation Mitigation and Conservation Commission, 102 West 500 South, Suite 315, Salt Lake City, UT 84101–2328, Telephone: (801) 524–3146.

Dated: October 1, 1998.

Michael C. Weland,

Executive Director, Utah Reclamation Mitigation and Conservation Commission.

[FR Doc. 98–27014 Filed 10–7–98; 8:45 am]

BILLING CODE 4310–05–P

Corrections

Federal Register

Vol. 63, No. 195

Thursday, October 8, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF STATE

[Public Notice 2884]

Privacy Act of 1974; Altered System of Records

Correction

In notice document 98–24381 beginning on page 48779 in the issue of Friday, September 11, 1998, make the following correction:

On page 48779, in the third column, in the 24th line from the bottom, ''unformed'' should read ''uniformed''.

BILLING CODE 1505-01-D

Federal Register

Thursday
October 8, 1998

Part II

Department of Energy

10 CFR Part 625

Price Competitive Sale of Strategic Petroleum Reserve Petroleum; Standard Sales Provisions; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 625

RIN Number: 1901–AA81

Price Competitive Sale of Strategic Petroleum Reserve Petroleum; Standard Sales Provisions

AGENCY: Department of Energy.

ACTION: Revised appendix to final rule.

SUMMARY: On December 21, 1983, the Department of Energy (DOE) published in the **Federal Register** a final rule governing the price competitive sales of petroleum from the Strategic Petroleum Reserve (SPR) in the event that the SPR is drawn down to respond to a severe energy supply interruption or to meet obligations of the United States under the Agreement on an International Energy Program. The final rule provided for the publication and periodic update in the **Federal Register**, as an appendix thereto, of Standard Sales Provisions (SSPs) containing or describing contract clauses, terms and conditions of sale, and performance and financial responsibility measures, which may be applicable to a particular sale of SPR petroleum. First published in interim final form on January 20, 1984, the SSPs have since been updated and issued for public comment several times, with draft revisions most recently published in the **Federal Register** on April 8, 1998 (63 FR 17260). As provided in the rule, DOE is now issuing those revised SSPs for use in an SPR drawdown.

EFFECTIVE DATE: October 8, 1998.

FOR FURTHER INFORMATION CONTACT:

Nancy T. Marland, U.S. Department of Energy, Strategic Petroleum Reserve, FE–43, Room 3G–070, 1000 Independence Ave., SW, Washington, DC 20585–0340, Phone: (202) 586–4691, Fax: (202) 586–7919, Internet: nancy.marland@hq.doe.gov

Henry T. Gaffney, FE–4451, U.S. Department of Energy, Strategic Petroleum Reserve, Project Management Office, 900 Commerce Road East, New Orleans, LA 70123, Phone: (504) 734–4249, Fax: (504) 734–4947, Internet: henry.gaffney@spr.doe.gov

Lot H. Cooke, U.S. Department of Energy, Office of Assistant General Counsel for Fossil Energy, GC–40, Room 6E–042, 1000 Independence Ave., SW, Washington, DC 20585–0103, Phone: (202) 586–6667, Fax: (202) 586–0971, lot.cooke@hq.doe.gov

SUPPLEMENTARY INFORMATION:

I. Background

A. The Strategic Petroleum Reserve Drawdown Plan and Sales Rule

The Strategic Petroleum Reserve (SPR) was established by the Energy Policy and Conservation Act of 1975 (EPCA), P.L. 94–163, to store petroleum to diminish the impact of disruptions on petroleum supplies and to carry out the obligations of the United States under the International Energy Program. EPCA required the preparation of an ''SPR Plan'' detailing proposals for the development of the SPR. The SPR Plan was to include a Distribution Plan setting forth the methods for drawing down and distributing the SPR in the event of an emergency. In 1979, a detailed Distribution Plan was transmitted to Congress as Amendment No. 3 to the SPR Plan. This Distribution Plan set out a number of alternative distribution methods, ranging from allocation to price competitive sales.

In the Energy Emergency Preparedness Act of 1982, P.L. 97–229, Congress required a new ''Drawdown'' (Distribution) Plan. The new plan, SPR Plan Amendment No. 4, was transmitted to Congress on December 1, 1982, and provided that the principal method of distributing SPR oil would be price competitive sale.

On March 16, 1983, DOE published a notice of proposed rulemaking (48 FR 11125) to establish a framework for implementing the policies and procedures set out in SPR Plan Amendment No. 4. The final SPR sales rule (published at 48 FR 56538, December 21, 1983), adopted after consideration of public comments, provides for the establishment of Standard Sales Provisions (SSPs), containing contract terms and conditions expected to be contained in contracts for the sale of SPR petroleum. The final SPR sales rule is at 10 CFR Part 625. The rule calls for the publication of the SSPs in the **Federal Register** and the Code of Federal Regulations as an appendix to the rule. The rule also provides for the periodic review and republication of the SSPs in the **Federal Register**, including any revisions to such provisions. The SSPs have in fact been revised several times in accordance with the rule since they were first published.

Upon a Presidential decision to draw down the SPR, DOE would issue a Notice of Sale, announcing the amounts and types of the SPR petroleum to be sold, the delivery locations and modes, and other pertinent information. The rule provides that the Secretary of Energy or his designee would specify in the Notice of Sale, by referencing the latest version of the SSPs, which of the terms and conditions in the SSPs would or would not apply to a particular sale. In addition, in the Notice of Sale, the Secretary could revise the terms and conditions, or add new ones applicable to that sale. The rule provides that no contract could be awarded to an offeror who had not unconditionally agreed to all provisions made applicable by the Notice of Sale.

B. General Sales Procedures

Under the SPR sales rule, the first step in the SPR competitive sales process is the issuance of a Notice of Sale which lists the volume, characteristics, and location of the petroleum for sale, delivery dates and procedures for submitting offers, as well as measures for assuring performance and financial responsibility.

Over the course of a drawdown, several Notices of Sale may be issued, each covering a sales period of one to two months. Offerors may have only seven days from the date of issuance until offers are due, and thirty days or less until purchasers must begin accepting delivery of the oil, although a less compressed schedule may become more feasible after the initial stages of drawdown. Because of the possible short lead time and as provided in the SSPs, DOE maintains a list of prospective offerors who will receive all Notices of Sale.

The next step in the sales process is for prospective purchasers to submit offers, as specified in the Notice of Sale. Offerors must unconditionally accept all terms and conditions in the Notice of Sale, submit an offer guarantee, and offer at least the minimum price, if any, specified in the Notice of Sale. After submission, the offers are evaluated and ''apparently successful offerors'' are selected. The offer evaluation process is structured so that the offerors bidding the highest prices determine their method of delivery, up to the limits of the distribution system, with specific delivery arrangements negotiated later in the process.

All apparently successful offerors are required, within five business days of being notified, to provide a letter of credit as a guarantee of performance and payment of amounts due under the contract. Upon timely receipt of the letters of credit, and a final determination by the Contracting Officer that offers are responsive and offerors responsible, the DOE issues the Notices of Award. Deliveries then commence to the purchasers, consistent with their arrangements for commercial pipeline or marine vessel transportation. Purchasers are invoiced following crude oil deliveries.

II. The Revised Standard Sales Provisions

No public comments were received on the draft revised SSPs published in the **Federal Register** on April 8, 1998. Therefore, no substantive changes have been made. For a discussion of the major changes proposed by those draft revisions see 63 FR 17260. Some draft revised SSPs, however, have been slightly revised to correct titles, add or correct factual information, or ensure internal consistency. Below is a provision-by-provision discussion of the noteworthy revisions.

SSP No. B.17 Notice of Sale Line Item Schedule—Petroleum Quantity, Quality, and Delivery Method

Paragraph (h) of this provision has been amended to reflect that instead of the referenced example crude oil assay format previously provided, Exhibit D now contains a set of actual crude oil assays for each SPR crude oil stream.

SSP No. C.7 Application Procedures for ''Jones Act'' and Construction Differential Subsidy Waivers

The address of the U. S. Customs Service has been corrected in paragraph (a).

SSP No. C.14 Acceptance of Crude Oil

The reference to the Exhibit D example of the crude oil assay format has been replaced by a statement referencing the set of actual crude oil assays for each SPR crude oil stream in Exhibit D.

Exhibit D SPR Crude Oil Comprehensive Analysis

Formerly titled ''SPR Crude Oil Stream Characteristics'', this exhibit now contains an analysis for each of the nine current SPR crude oil streams.

Exhibit E SPR Delivery Point Data

Previously omitted vessel maximum draft information has been provided for Sun Pipe Line Company, Nederland, Texas.

Exhibit F Offer Standby Letter of Credit

The typed name and title for the authorized signature have been added to the signature block.

III. Procedural Requirements

A. Review Under Executive Order 12866

This action does not constitute a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget.

B. Review Under the National Environmental Policy Act

The amended SSPs are procedural in nature and will not result in environmental impacts. The Department, therefore, has determined that the revisions are covered under the Categorical Exclusion found at paragraph A.6 of Appendix A to Subpart D, 10 CFR Part 1021, which applies to such procedural rulemakings. Accordingly, neither an environmental assessment nor an environmental impact statement was prepared.

C. Review Under Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that a federal agency prepare a regulatory flexibility analysis for any rule for which the agency is required to publish a general notice of proposed rulemaking. The Regulatory Flexibility Act does not apply to this rulemaking because DOE is not required by the Administrative Procedure Act (APA) or other law to publish proposed revisions to the Standard Sales Provisions for public comment. The Standard Sales Provisions, and revisions thereof, are non-binding provisions that are covered under the APA's exemption from notice and comment rulemaking requirements at 5 U.S.C. 553(b)(B).

D. Review Under the Paperwork Reduction Act of 1995

The revisions of Standard Sales Provisions would impose no new collection of information requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

E. Review Under Executive Order 12612

Executive Order 12612, ''Federalism,'' 52 FR 41685 (October 30, 1987), requires the review of regulations, rules, legislation, and any other policy actions for any substantial direct effects on States, on the relationship among the federal government and the states, or on the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federal assessment to be used in all decisions involved in promulgating and implementing a policy action. DOE has analyzed the revised SSPs in accordance with the principles and criteria in Executive Order 12612, and has determined that they would not have a substantial direct effect on the institutional interests or traditional functions of states.

F. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531 *et seq.*, requires each federal agency to prepare a written assessment of the effects of any federal mandate in an agency rule that may result in the expenditure by state, local, tribal governments, in the aggregate or by the private sector, of $100 million or more in any one year. The revisions of Standard Sales Provisions would not impose a federal mandate on state, local, and tribal governments or on the private sector. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

G. Review Under Executive Order 12988

Section 3 of Executive Order 12988, Civil Justice Reform, 61 FR 4729 (February 7, 1996), instructs each agency to adhere to certain requirements when promulgating new regulations and reviewing existing regulations. These requirements, set forth in paragraphs 3(a) and (b)(2) of the Executive Order, include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation specifies clearly any preemptive effect, describes any administrative proceedings, and defines key terms. The Department has determined that the revised SSPs meet the requirements of paragraphs 3(a) and (b) of Executive Order 12988.

H. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective Date. The report will state that it has been determined that the rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

List of Subjects in 10 CFR Part 625

Government contracts, Oil and gas reserves, Strategic and critical materials.

Issued in Washington, D.C. on September 28, 1998.

R.D. Furiga,

Deputy Assistant Secretary, Strategic Petroleum Reserve.

For the reasons set forth in the preamble, 10 CFR Part 625 is amended to read as follows:

PART 625—PRICE COMPETITIVE SALE OF STRATEGIC PETROLEUM RESERVE PETROLEUM

1. The authority citation for Part 625 continues to read as follows:

Authority: 15 U.S.C. 761; 42 U.S.C. 7101; 42 U.S.C. 6201.

2. Appendix A to 10 CFR part 625 is revised to read as follows:

Appendix A to Part 625—Standard Sales Provisions

Index

Exhibits

SECTION A—General Pre-Sale Information

A.1 List of Abbreviations

(a) ASO: Apparently Successful Offeror
(b) DLI: Delivery Line Item
(c) DOE: U.S. Department of Energy
(d) MLI: Master Line Item
(e) NA: Notice of Acceptance
(f) NS: Notice of Sale
(g) SOML: Sales Offerors Mailing List
(h) SSPs: Standard Sales Provisions
(i) SPR: Strategic Petroleum Reserve
(j) SPRCODR: SPR Crude Oil Delivery Report (Exhibit H)
(k) SPR/PMO: Strategic Petroleum Reserve Project Management Office

A.2 Definitions

(a) *Affiliate.* The term ''affiliate'' means associated business concerns or individuals if, directly or indirectly, (1) either one controls or can control the other, or (2) a third party controls or can control both.

(b) *Business Day.* The term ''business day'' means any day except Saturday, Sunday or a U.S. Government holiday.

(c) *Contract.* The term ''contract'' means the contract under which DOE sells SPR petroleum. It is composed of the NS, the NA, the successful offer, and the SSPs incorporated by reference.

(d) *Contracting Officer.* The term ''Contracting Officer'' means the person executing sales contracts on behalf of the Government, and any other Government employee properly designated as Contracting Officer. The term includes the authorized representative of a Contracting Officer acting within the limits of his or her authority.

(e) *Government.* The term ''Government'', unless otherwise indicated in the text, means the United States Government.

(f) *Head of the Contracting Activity.* The term ''Head of the Contracting Activity'' means Project Manager, Strategic Petroleum Reserve Project Management Office.

(g) *Notice of Acceptance (NA).* The term ''Notice of Acceptance'' means the document that is sent by DOE to accept the purchaser's offer to create a contract.

(h) *Notification of Apparently Successful Offeror (ASO).* The term ''notification of apparently successful offeror'' means the notice, written or oral, by the Contracting Officer to an offeror that it will be awarded a contract if it is determined to be responsible.

(i) *Notice of Sale (NS).* The term ''Notice of Sale'' means the document announcing the sale of SPR petroleum, the amount, characteristics and location of the petroleum being sold, the delivery period and the procedures for submitting offers. The NS will specify what contractual provisions and financial and performance responsibility measures are applicable to that particular sale of petroleum and provide other pertinent

information. (See Exhibit B, Sample Notice of Sale)

(j) *Offeror.* The term ''offeror'' means any person or entity (including a government agency) who submits an offer in response to a NS.

(k) *Petroleum.* The term ''petroleum'' means crude oil, residual fuel oil, or any refined product (including any natural gas liquid, and any natural gas liquid product) owned or contracted for by DOE and in storage in any permanent SPR facility, temporarily stored in other storage facilities, or in transit to such facilities (including petroleum under contract but not yet delivered to a loading terminal).

(l) *Project Management Office (SPR/PMO).* The term ''Project Management Office'' means the DOE personnel and DOE contractors located in Louisiana and Texas responsible for the operation of the SPR.

(m) *Purchaser.* The term ''purchaser'' means any person or entity (including a government agency) who enters into a contract with DOE to purchase SPR petroleum.

(n) *Standard Sales Provisions (SSPs).* The term ''Standard Sales Provisions'' means this set of terms and conditions of sale applicable to price competitive sales of SPR petroleum. These SSPs constitute the ''standard sales agreement'' referenced in the Strategic Petroleum Reserve ''Drawdown'' (Distribution) Plan, Amendment No. 4 (December 1, 1982, DOE/EP 0073) to the SPR Plan.

(o) *Strategic Petroleum Reserve (SPR).* The term ''Strategic Petroleum Reserve'' means that DOE program established by Title I, Part B, of the Energy Policy and Conservation Act, 42 U.S.C. Section 6201, *et seq.*

(p) *Vessel.* The term ''vessel'' means a tankship, an integrated tug-barge (ITB) system, a self-propelled barge, or other barge.

A.3 Standard Sales Provisions (SSPs)

(a) These SSPs contain pre-sale information, sales solicitation provisions, and sales contract clauses setting forth terms and conditions of sale, including purchaser financial and performance responsibility measures, or descriptions thereof, which may be applicable to price competitive sales of petroleum from the SPR in accordance with the SPR Sales Rule, 10 CFR Part 625. The NS will specify which of these provisions shall apply to a particular sale of such petroleum, and it may specify any revisions therein and any additional provisions which shall be applicable to that sale. (See Exhibit B, Sample Notice of Sale)

(b) All offerors must, as part of their offers for SPR petroleum in response to a NS, agree without exception to all sales provisions of that NS. Offerors shall indicate their agreement by signing the Sales Offer Form (Exhibit A) or other form generated from electronic media used for submitting offers as specified by DOE in the NS. The Government will not award a contract to an offeror who has failed to so agree.

A.4 Periodic Revisions of the Standard Sales Provisions

DOE will review the SSPs periodically and republish them in the **Federal Register**, with any revisions. When an NS is issued, it will cite the **Federal Register** and the Code of Federal Regulations (if any) in which the latest version of the SSPs was published. Offerors are cautioned that the Code of Federal Regulations may not contain the latest version of the SSPs published in the **Federal Register**. Interested persons may obtain a copy of the current SSPs by contacting the SPR/PMO at the address set forth in Provision No. A.5.

A.5 Sales Offerors' Mailing List (SOML)

(a) The SPR/PMO will maintain a Sales Offerors Mailing List (SOML) of those potential offerors who wish to receive an NS whenever one is issued. In order to assure that prospective offerors will receive the NS or offer forms in a timely fashion, all potential offerors are encouraged to submit the information in (d) of this provision as soon as possible. An NS may be issued with a week or less allowed for the receipt of offers. While DOE will use its best efforts to timely supply copies of the NS to persons not on the list who request the NS at the time an SPR petroleum sale is announced, this may not always be feasible in light of the short amount of time available before offers must be received.

(b) Any firm or individual may request to be on the SOML by providing the information in (d) of this provision by letter, telephone or electronic means to: Sales Offerors Mailing List (SOML), U.S. Department of Energy, Strategic Petroleum Reserve, Project Management Office, Acquisition and Sales Division, Mail Stop FE–4451, 900 Commerce Road East, New Orleans, Louisiana 70123, Telephone Number (504) 734–4249/4201, Facsimile (504) 734–4427, e-mail: soml@spr.doe.gov

Any envelope should be marked ''SPR Sales Offerors'' Mailing List.''

(c) Copies of the SSPs and the NS, when one is issued, may also be obtained from this address.

(d) A request to be placed on the SOML should include the following information:

Name of firm
Mailing address (Street and P.O. Box)
City, State, Zip Code
Name of authorized agent and alternate authorized agent
Telephone numbers for agent and alternate including area code
Agent address, if different from firm represented
Internet address
Telephone number for facsimile transmission, including area code
Telephone number for verification of message receipt, including area code
Dun's number

As DOE may use express mail, which cannot be delivered to a Post Office box, failure to provide a street address could result in untimely receipt of the NS and will be at the offeror's risk.

A.6 Publicizing the Notice of Sale

(a) The NS will be sent to names on the SOML referenced in Provision No. A.5. Interested persons may send a representative to the address in Provision No. A.5 to obtain a copy of the NS.

(b) In addition to those on the SOML, the NS will also be sent to anyone requesting it when a sale is announced.

(c) A DOE press release, which will include the salient features of the NS, will be made available to all news agencies.

(d) At the option of the Contracting Officer, advertisements may be placed in publications or media (including the Internet) likely to reach interested parties. The advertisements will contain the salient features of the NS and a point of contact at the SPR/PMO for further information.

A.7 Penalty for False Statements in Offers To Buy SPR Petroleum

(a) Making false statements in an offer to buy SPR petroleum may expose an offeror to a penalty under the False Statements Act, 18 U.S.C. Section 1001, which provides:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

(b) Under 18 U.S.C. 3571, the maximum fine to which an individual or organization may be sentenced for violations of 18 U.S.C. (including Section 1001) is set at $250,000 and $500,000 respectively, unless there is a greater amount specified in the statute setting out the offense, or the violation is subject to special factors set out in Section 3571. The United States Sentencing Guidelines also apply to violations of Section 1001, and offenders may be subject to a range of fines under the guidelines up to and including the maximum amounts permitted by law.

SECTION B—Sales Solicitation Provisions

B.1 Requirements for a Valid Offer—Caution to Offerors

A valid offer to purchase SPR petroleum must meet the following conditions:

(a) The offer guarantee (see Provision No. B.11) must be received no later than the time set for the receipt of offers;

(b) The offer must include a completed Sales Offer Form, i.e., Exhibit A or other form generated by electronic means for submitting offers as specified by DOE in the NS, and signed SPRPMO Form 33S (Exhibit C) or other forms as specified in the NS;

(c) The offer must be received no later than the time set for receipt of offers;

(d) Any amendments to the NS that explicitly require acknowledgment of receipt must be properly acknowledged as provided for on Exhibit C; and

(e) The offeror must agree without exception to all provisions of the SSPs that the NS makes applicable to a particular sale, as well as to all provisions in the NS.

B.2 Price Indexing

The Government, at its discretion, may make use of a price indexing mechanism to effect contract price adjustments based on petroleum market conditions, e.g., crude oil

market price changes between the times of offer price submissions and physical deliveries. The NS will set forth the provisions applicable to any such mechanism.

B.3 Certification of Independent Price Determination

(a) The offeror certifies that:

(1) The prices in this offer have been arrived at independently, without, for the purposes of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to: (i) those prices; (ii) the intention to submit an offer; or (iii) the methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or to any competitor before the time set for receipt of offers, unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory:

(1) Is the person within the offeror's organization responsible for determining the prices being offered, and that the signatory has not participated, and will not participate, in any action contrary to (a)(l) through (a)(3) of this provision; or

(2) (i) Has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to (a)(l) through (a)(3) of this provision; (ii) as their agent does hereby so certify; and (iii) as their agent has not participated, and will not participate, in any action contrary to (a)(l) through (a)(3) of this provision.

(c) An offer will not be considered for award where (a)(l),(a)(3), or (b) of this provision has been deleted or modified. If the offeror deletes or modifies (a)(2) of this provision, the offeror must furnish with the offer a signed statement setting forth in detail the circumstances of the disclosure.

B.4 Requirements for Vessels—Caution to Offerors

(a) The ''Jones Act'', 46 U.S.C. 883, prohibits the transportation of any merchandise, including SPR petroleum, by water or land and water, on penalty of forfeiture thereof, between points within the United States (including Puerto Rico, but excluding the Virgin Islands) in vessels other than vessels built in and documented under laws of the United States, and owned by United States citizens, unless the prohibition has been waived by the Secretary of Treasury. Further, certain U.S.-flag vessels built with Construction Differential Subsidies (CDS) are precluded by Section 506 of the Merchant Marine Act of 1936 (46 U.S.C. 1156) from participating in U.S. coastwise trade, unless such prohibition has been waived by the Secretary of Transportation, the waiver being limited to a maximum of 6 months in any given year. CDS vessels may also receive Operating Differential Subsidies, requiring separate permission from the Secretary of Transportation for domestic operation, under Section 805(a) of the same statute. The NS will advise offerors of any general waivers allowing use of non-coastwise qualified vessels or vessels built with Construction Differential Subsidies for a particular sale of SPR petroleum. If there is no general waiver, purchasers may request waivers in accordance with Provision No. C.7, but remain obligated to complete performance under this contract regardless of the outcome of that waiver process.

(b) The Department of Transportation's interim rule concerning Reception Facility Requirements for Waste Materials Retained on Board (33 CFR Parts 151 and 158) implements the reception facility requirements of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the 1978 Protocol relating thereto (MARPOL 73/78). This rule prohibits any oceangoing tankship, required to retain oil or oily mixtures on-board while at sea, from entering any port or terminal unless the port or terminal has a valid Certificate of Adequacy as to its oily waste reception facilities. SPR marine terminals (see Exhibit E, SPR Delivery Point Data) have Certificates of Adequacy and reception facilities for vessel sludge and oily bilge water wastes, all costs for which will be borne by the vessel. The terminals, however, may not have reception facilities for oily ballast. Accordingly, tankships without segregated ballast systems will be required to make arrangements for and be responsible for all costs associated with appropriate disposal of such ballast, or they will be denied permission to load SPR petroleum at terminals that lack reception facilities for oily ballast.

(c) By submission of an offer, the offeror certifies that it will comply with the ''Jones Act'' and all applicable ballast disposal requirements.

B.5 ''Superfund'' Tax on SPR Petroleum—Caution to Offerors

(a) Sections 4611 and 4612 of the Internal Revenue Code, which imposed a tax on domestic and imported petroleum to support the Hazardous Substance Response Fund (the ''Superfund''), were revised by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99–499; and the Omnibus Budget Reconciliation Act of 1986, Public Law 99–509; the Steel Trade Liberalization Program Implementation Act, Public Law 101–221; and the Omnibus Budget Reconciliation Act of 1989, Public Law 101–239. As amended, these sections impose taxes to finance the Hazardous Substance Superfund and the Oil Spill Liability Trust Fund (''Trust Fund'').

(b) Section 4611 imposes taxes on domestic crude oil and on imported crude oil to support the Superfund and the Trust Fund. The taxes are imposed on (1) crude oil received at a United States refinery and (2) petroleum products (including crude oil) entered into the United States for consumption, use, or warehousing. Section 4612 provides that no tax is imposed if it is established that a prior tax imposed by Section 4611 has already been paid with respect to a barrel of oil. Additionally, as determined by the Secretary of Treasury, the Hazardous Substance Superfund tax and the Oil Spill Liability Trust Fund tax may not be imposed during certain periods when the unobligated balances of the funds reach particular statutorily-prescribed levels.

(c) DOE has already paid the Superfund and Trust Fund taxes on some of the oil imported and stored in the SPR. However, no Superfund or Trust Fund tax has been paid on imported oil stored prior to the effective dates of these Acts or on any domestic oil stored in the SPR. Because domestic and imported crude oil for which no taxes have been paid and crude oils for which Superfund and Trust Fund taxes have been paid have been commingled in the SPR, upon drawdown of the SPR, the NS will advise purchasers of the tax liability.

B.6 Export Limitations and Licensing—Caution to Offerors

(a) Offerors for SPR petroleum are put on notice that export of SPR crude oil is subject to U.S. export control laws implemented by the Department of Commerce Short Supply Controls, codified at 15 CFR part 754, § 754.2, Crude oil. Subsections of § 754.2 provide for the approval of applications to export crude oil from the SPR in connection with refining or exchange of SPR oil. Specifically, these subsections are § 754.2(b)(iii), and 754.2(g), Refining or exchange of Strategic Petroleum Reserve Oil. These provisions are issued under 42 U.S.C. 6241(i), and implement the authority given to the President to permit the export of oil in the SPR for the purpose of obtaining refined petroleum for the U.S. market. In addition, the President could waive the requirement for an export license all together. The NS will advise of any waivers under this Presidential authority.

(b) By submission of an offer, the offeror certifies that it will comply with any applicable U.S. export control laws.

B.7 Issuance of the Notice of Sale

In the event petroleum is sold from the SPR, DOE will issue a NS containing all the pertinent information necessary for the offeror to prepare a priced offer. A NS may be issued with a week or less allowed for the receipt of offers. Offerors are expected to examine the complete NS document, and to become familiar with the SSPs cited therein. Failure to do so will be at the offeror's risk.

B.8 Submission of Offers and Modification of Previously Submitted Offers

(a) Unless otherwise provided in the NS, offers must be submitted to the SPR/PMO in New Orleans, Louisiana, by mail, hand-delivery, or electronic means as specified in the NS. Any direct cash deposits as offer guarantees shall be sent by wire or electronic funds transfer in accordance with Provision No. C.23.

(b) Unless otherwise provided in the NS, offers may be modified or withdrawn by hand delivery, mail, telegram, or electronic means specified in the NS, provided that the hand delivery, mail, telegram, or electronic submission is received at the designated

office prior to the time specified for receipt of offers.

(c) Envelopes containing offers and any material related to offers shall be plainly marked on the outside; ''RE: NS # _____ FOR SALE OF PETROLEUM FROM STRATEGIC PETROLEUM RESERVE. OFFERS ARE DUE (insert time of opening), LOCAL NEW ORLEANS, LA TIME ON (insert date of opening). MAIL ROOM MUST MARK DATE AND TIME OF RECEIPT ON FACE OF THE ENVELOPE.'' Envelopes containing modified offers or any material related to supplements or modifications of offers, shall be plainly marked on the outside: ''RE: NS #_____ FOR SALE OF PETROLEUM FROM STRATEGIC PETROLEUM RESERVE. OFFER MODIFICATION. MAIL ROOM MUST MARK DATE AND TIME OF RECEIPT ON FACE OF THE ENVELOPE.''

(d) All envelopes shall be marked with the full name and return address of the offeror.

(e) Offers being sent by mail and modifications being sent by hand delivery, mail, telegram, or electronic means must be received at the address specified in the NS. Offers or modifications submitted by electronic means must contain the required signatures. If requested by the contracting officer, the offeror agrees to promptly submit the complete original signed offer/modification.

(f) If the offeror chooses to transmit an offer/modification by electronic means, the Government will not be responsible for any failure attributable to the transmission or receipt of the offer/modification, including, but not limited to, the following:

(1) Receipt of garbled or incomplete offer/modification,

(2) Availability or condition of the receiving equipment,

(3) Incompatibility between the sending and receiving equipment,

(4) Delay in transmission or receipt of the offer/modification,

(5) Failure of the offeror to properly identify the offer/modification,

(6) Illegibility of offer/modification

(7) Security of the data contained in the offer/modification.

(g) Handcarried offers brought during normal business hours on the day set for receipt of offers, or any day prior to that day, shall be taken by the offeror to the place specified in the NS. This includes mail being delivered by a delivery service.

(h) Public opening of offers is not anticipated unless otherwise indicated in the NS. DOE will not release to the general public the identities of the offerors, or their offer quantities and prices, until the Apparently Successful Offerors have been determined. DOE will inform simultaneously all offerors and other interested parties of the successful and unsuccessful offerors and their offer data by means of a public ''offer posting.'' The offer posting will normally occur within a week of receipt of offers and will provide all interested parties access to offer data as well as any DOE changes in the petroleum quantities or quality to be sold. DOE will announce the date, time, and location of the offer posting as soon as practicable.

B.9 Acknowledgment of Amendments to a Notice of Sale

When an amendment to a NS requires acknowledgment of receipt by an offeror, it must be acknowledged either by (a) signing and returning the amendment; (b) identifying the amendment number and date in the space provided for this purpose on SPRPMO Form 33S (Exhibit C); or (c) letter, telegram, or electronic means as specified in the NS, sent to the address specified in the NS. Such acknowledgment must be received prior to the time specified for receipt of offers.

B.10 Late Offers, Modifications of Offers, and Withdrawal of Offers

(a) Any offer received at the office designated in the NS after the date and time specified for receipt will be considered only if it is received before award is made and only under the following conditions:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of offers (e.g., an offer submitted in response to a NS requiring receipt of offers by the 20th of the month must have been mailed by the 15th or earlier); or,

(2) It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, or established commercial express service, not later than the close of business at the place of mailing 2 working days prior to the date specified for receipt of offers. The working days exclude weekends and U.S. Federal holidays; or,

(3) It was sent by mail, express mail, telegram or electronic means as specified in the NS, and it is determined by the Contracting Officer that the late receipt was due solely to mishandling by the SPR/PMO after receipt at the address specified in the NS; or

(4) It is the only offer received.

(b) Any modification or withdrawal of an offer is subject to the same conditions as in (a) of this provision, except that it shall be mailed not less than the third calendar day prior to the date specified for receipt of offers. An offer may also be withdrawn in person by an offeror or its authorized representative, provided the representative's identity is made known and the representative signs a receipt for the offer, but only if the withdrawal is made prior to the time set for receipt of offers.

(c) The only acceptable evidence to establish:

(1) The date of mailing of a late offer, modification, or withdrawal sent either by registered or certified mail is the U.S. Postal Service postmark on either (i) the envelope or wrapper, or (ii) the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the offer, modification or withdrawal shall be deemed to have been mailed late. Postmark means a printed, stamped, or otherwise placed impression, exclusive of a postage meter machine impression, that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service. Therefore, offerors should request the postal clerk to place a hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

(2) The date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee or established commercial service is the date entered by the receiving clerk on the ''Express Mail Next Day Service-Post Office to Addressee'' or other comparable service label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service or commercial service.

(3) The time of receipt at the address specified in the NS is the time/date stamp at such address on the offer's wrapper or other documentary evidence of receipt maintained at the place of receipt.

(d) Notwithstanding (a) and (b) of this provision, a late modification of an otherwise successful offer that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

B.11 Offer Guarantee

(a) Each offeror must submit an acceptable offer guarantee for each offer submitted. Each offer guarantee must be received at the place specified for receipt of offers no later than the time and date set for receipt of offers.

(b) An offeror's failure to submit a timely, acceptable guarantee will result in rejection of its offer.

(c) The amount of each offer guarantee is $10 million or 5 percent of the maximum potential contract amount, whichever is less. The maximum potential contract amount is the sum of the products determined by multiplying the offer's maximum purchase quantity for each master line item, times the highest offer prices that the offeror would have to pay for that master line item if the offer were to be successful. To assist in this calculation, instructions and a worksheet are available at Exhibit J. Submission of the worksheet is not desired.

(d) Each offeror must submit one of the following types of offer guarantees with each offer:

(1) A cash wire deposit or electronic funds transfer to the account of the U.S. Treasury in accordance with Provision No. C.23, all attendant costs to be borne by the offeror; or

(2) A irrevocable standby letter of credit from a U.S. depository institution containing the substantive provisions set out in Exhibit F, Offer Standby Letter of Credit, all letter of credit costs to be borne by the offeror. If the letter or credit contains any provisions at variance with Exhibit F or fails to include any provisions contained in Exhibit F, nonconforming provisions must be deleted and missing substantive provisions must be added or the letter of credit will not be accepted. The depository institution must be located in and authorized to do business in any state of the United States or the District of Columbia, and authorized to issue letters of credit by the banking laws of the United States or any state of the United States or the District of Columbia. The original of the letter of credit must be sent to the Contracting Officer. The issuing bank must provide documentation indicating that the person signing the letter of credit is authorized to do so, in the form of corporate minutes, the Authorized Signature List, or the General Resolution of Signature Authority.

(e) If the offeror elects to make an offer guarantee by cash wire deposit or electronic funds transfer, the Sales Offer Form shall be annotated with the statement ''Offer guarantee made by cash wire deposit (or electronic funds transfer.)'' The amount transferred shall be annotated on the bottom of the first page of the offer form. In addition, the information identified in Exhibit I, Instruction Guide for Return of Offer Guarantees by Electronic Transfer or Treasury Check, shall be provided with the offer.

(f) If the offeror or bank forwards the letter of credit separately from the offer, the envelope shall clearly be marked ''Offer Standby Letter of Credit (Name of Company)'' and also marked in accordance with Provision No. B.8(c). Offerors are cautioned that if they provide more than one Offer Standby Letter of Credit for multiple offers and, due to the absence of clear information from the offeror, the Government is unable to identify which Letter of Credit applies to which offer, the Contracting Officer in his sole discretion may assign the Letters of Credit to specific offers.

(g) The offeror shall be liable for any amount lost by DOE due to the difference between the offer and the resale price, and for any additional resale costs incurred by DOE in the event that the offeror:

(1) Withdraws its offer within l0 days following the time set for receipt of offers;

(2) Withdraws its offer after having agreed to extend its acceptance period; or

(3) Having received a notification of ASO, fails to furnish an acceptable payment and performance letter of credit (see Provision C.21) within the time limit specified by the Contracting Officer.

The offer guarantee shall be used toward offsetting such price difference or additional resale costs. Use of the offer guarantee for such recovery shall not preclude recovery by DOE of damages in excess of the amount of the offer guarantee caused by such failure of the offeror.

(h) Letters of credit furnished as offer guarantees must be valid for at least 60 calendar days after the date set for the receipt of offers.

(i) Offer guarantees (except letters of credit) will be returned to an unsuccessful offeror 5 business days after expiration of the offeror's acceptance period, and, except as provided in (k) of this provision, to a successful offeror upon receipt of a satisfactory payment and performance letter of credit. Cash offer guarantees will be subsequently returned to unsuccessful offerors via Treasury check or electronic transfer in accordance with the information delineated in Exhibit I. Letters of credit will be returned only upon request.

(j) Where the offer guarantee was a cash wire deposit or electronic funds transfer, a successful offeror may apply it toward the first invoice for delivery under the resultant contract.

(k) If an offeror defaults on its offer, DOE will hold the offer guarantee so that damages can be assessed against it.

B.12 Explanation Requests From Offerors

Offerors may request explanations regarding meaning or interpretation of the NS from the individual at the telephone number indicated in the NS. On complex and/or significant questions, DOE reserves the right to have the offeror put the question in writing; explanation or instructions regarding these questions will be given as an amendment to the NS.

B.13 Currency for Offers

Prices shall be stated and invoices shall be paid in U.S. dollars.

B.14 Language of Offers and Contracts

All offers in response to the NS and all modifications of offers shall be in English. All correspondence between offerors or purchasers and DOE shall be in English.

B.15 Proprietary Data

If any information submitted in connection with a sale is considered proprietary, that information should be so marked, and an explanation provided as to the reason such data should be considered proprietary. Any final decision as to whether the material so marked is proprietary will be made by DOE. DOE's Freedom of Information Act regulations governing the release of proprietary data shall apply.

B.16 SPR Crude Oil Streams and Delivery Points

(a) The geographical locations of the terminals, pipelines, and docks interconnected with permanent SPR storage locations, the SPR crude oil streams available at each location and the delivery points for those streams are as follows, (See also Exhibit D, SPR Crude Oil Comprehensive Analysis, and Exhibit E, SPR Delivery Point Data):

Geographical location	Delivery points	Crude oil stream
Freeport, Texas	Seaway Terminal or Seaway, Pipeline Jones Creek.	SPR Bryan Mound Sweet, SPR Bryan Mound Sour, SPR Bryan Mound Maya.
Texas City, Texas	Seaway Terminal or Seaway, Local Pipelines	SPR Bryan Mound Sweet, SPR Bryan Mound Sour, SPR Bryan Mound Maya.
Nederland, Texas	Sun Pipe Line Company, Nederland Terminal	SPR West Hackberry Sweet, SPR West Hackberry Sour, SPR Big Hill Sweet, SPR Big Hill Sour.
Lake Charles, Louisiana	Texaco 22-Inch/DOE Lake, Charles Pipeline Connection.	SPR West Hackberry Sweet, SPR West Hackberry Sour.
St. James, Louisiana	Equilon Sugarland Terminal connected to LOCAP and Capline.	SPR Bayou Choctaw Sweet, SPR Bayou Choctaw Sour.
Beaumont, Texas	Unocal Terminal	SPR Big Hill Sweet, SPR Big Hill Sour.
Winnie, Texas	TPLI 20-Inch Meter Station	SPR Big Hill Sweet, SPR Big Hill Sour.

(b) The NS may change delivery points and it may also include additional terminals, temporary storage facilities or systems utilized in connection with petroleum in transit to the SPR. Alternatively, DOE may provide for transportation to the purchaser's facility, for example, when the petroleum is in transit to the SPR at time of sale.

(c) The NS may contain additional information supplementing Exhibit E, SPR Delivery Point Data.

B.17 Notice of Sale Line Item Schedule—Petroleum Quantity, Quality, and Delivery Method

(a) Unless the NS provides otherwise, the possible master line items (MLI) that may be offered are as provided in Exhibit A, SPR Sales Offer Form. Currently, there are nine MLIs in Exhibit A, one for each of the nine crude oil streams that the SPR has in storage. The NS may not offer all the possible MLIs.

(b) Each MLI contains several delivery line items (DLIs), each of which specifies an available delivery method and the nominal delivery period. Offerors are cautioned that the NS may alter the period of time covered by each DLI. This is most likely to occur in the first sales period of a drawdown if the period of sale does not correspond to a calendar month. The NS will specify which DLIs are offered for each MLI.

(1) DLI–A covers petroleum to be transported by pipeline, either common carrier or local. The nominal delivery period is one month.

(2) DLI–B, DLI–C and DLI–D cover petroleum to be transported by tankships: DLI–B, covering tankships to be loaded from the 1st through the 10th of the month; DLI–C, tankships to be loaded from the 11th through the 20th; and DLI–D, tankships to be loaded from the 21st through the last day of the month.

(3) DLI–E, DLI–F and DLI–G cover petroleum to be transported by barges (Caution: These DLIs are currently only applicable to deliveries of West Hackberry and Big Hill Sweet and Sour crude oil streams from Sun Docks); DLI–E, covering barges to be loaded from the 1st through the 10th of the month; DLI–F, barges to be loaded from the 11th through the 20th; and DLI–G, barges to be loaded from the 21st through the last day of the month.

(4) Where the storage site is connected to more than one terminal or pipeline,

additional DLIs will be offered. The additional DLIs will include DLI-H, covering petroleum to be transported by pipeline over the period of a month; DLI-I thru DLI-K, covering tankships, etc. The Notice of Sale will specify any additional DLIs which may be applicable.

(c) The NS will state the total estimated number of barrels to be sold on each MLI. An offeror may offer to buy all or part of the petroleum offered on an MLI. In making awards, the Contracting Officer shall attempt to achieve award of the exact quantities offered by the NS, but may sell a quantity of petroleum in excess of the quantity offered for sale on a particular MLI in order to match the DLI offers received. In addition, the Contracting Officer may reduce the MLI quantity available for award by any amount and reject otherwise acceptable offers, if he determines, in his sole discretion after consideration of the offers received on all of the MLIs, that award of those quantities is not in the best interest of the Government because the prices offered for them are not reasonable, or that, in light of market conditions after offers are received, a lesser quantity than that offered should be sold.

(d) The NS will specify a minimum contract quantity for each DLI. To be responsive, an offer on a DLI must be for at least that quantity.

(e) The NS will specify the maximum quantity that could be sold on each of the DLIs. The maximum quantity is not an indication of the amount of petroleum that, in fact, will be sold on that DLI. Rather, it represents DOE's best estimate of the maximum amount of the particular SPR crude oil stream that can be moved by that transportation system over the delivery period. The total DOE estimated DLI maximums may exceed the total number of barrels to be sold on that MLI, as the NS DLI estimates represent estimated transportation capacity, not the amount of petroleum offered for sale.

(f) The NS will not specify what portion of the petroleum that DOE offers on a MLI will, in fact, be sold on any given DLI. Rather, the highest priced offers received on the MLI will determine the DLIs against which the offered petroleum is sold.

(g) DOE will not sell petroleum on a DLI in excess of the DLI maximum; however, DOE reserves the right to revise its estimates at any time and to award or modify contracts in accordance with its revised estimates. Offerors are cautioned that: DOE cannot guarantee that such transportation capacity is available; offerors should undertake their own analyses of available transportation capacity; and each purchaser is wholly responsible for arranging all transportation other than terminal arrangements at the terminals listed in Provision No. B.16, which shall be made in accordance with Provision No. C.5. A purchaser against one DLI cannot change a transportation mode without prior written permission from DOE, although such permission will be given whenever possible, in accordance with Provision No. C.6.

(h) Exhibit D, SPR Crude Oil Comprehensive Analysis, contains nominal characteristics for each SPR crude oil stream. Prospective offerors are cautioned that these data will change with SPR inventory changes. The NS will provide, to the maximum extent practicable, the latest data on each stream offered.

B.18 Line Item Information to be Provided in the Offer

(a) Each offeror, if determined to be an ASO on a DLI, agrees to enter into a contract under the terms of its offer for the purchase of petroleum in the offer and to take delivery of that petroleum (plus or minus 10 percent as provided for in Provision No. C.20) in accordance with the terms of that contract.

(b) An offeror may submit an offer which is for more than one MLI. However, offerors are cautioned that alternate offers on different MLIs are not permitted. For example, an offeror may offer to purchase 1,000,000 barrels of SPR West Hackberry Sweet and 1,000,000 barrels of SPR West Hackberry Sour, but may not offer to purchase, in the alternative, either 1,000,000 barrels of sweet or 1,000,000 barrels of sour.

(c) An offeror may submit multiple offers. However, separate offer forms and offer guarantees must be submitted and each offer will be evaluated on an individual basis.

(d) The following information will be provided to DOE by the offeror on the form in Exhibit A or other forms as required by the NS:

(1) MLI quantity. (''MAXQ'' on the Exhibit A offer form) The offer shall state the maximum quantity of each crude oil stream that the offeror is willing to buy.

(2) DLI quantity. (''DESQ'') The offer shall state the number of barrels that the offeror will accept on each DLI, i.e., by the delivery mode and during the delivery period specified. The quantity stated on a single DLI shall not exceed the MAXQ for the MLI. The offeror shall designate a quantity on at least one DLI for the MLI, but may designate quantities on more than one DLI. If the offeror is willing to accept alternate DLIs, the total of its designated DLI quantities would exceed its maximum MLI quantity; otherwise, the total of its designated DLI quantities should equal its maximum MLI quantity.

(3) DLI unit price (''UP$$'') and total price. The offer shall state the price per barrel for each DLI for which the offeror has designated a desired quantity, as well as the total price (quantity times unit price). Where offers have indicated quantities on more than one DLI with a different price on each, DOE will award the highest priced DLI first. If the offeror has the same price for two or more DLIs, it may indicate its first choice, second choice, etc., for award of those items; if the offeror does not indicate a preference, or indicates the same preference for more than one DLI, DOE may select the DLIs to be awarded at its discretion. Prices may be stated in hundredths of a cent ($0.0001). DOE shall drop from the offer and not consider any numbers of less than one one-hundredth of a cent.

(4) Minimum DLI quantity acceptable. (''MINQ'') The offeror must choose whether to accept only the stated DLI quantity (DESQ) or, in the alternative, to accept any quantity awarded between the offer's stated DLI quantity and the minimum contract quantity for the DLI (indicated by the ''N'' and ''Y'' blocks respectively under ''MINQ'' on the offer form). However, DOE will award less than the DESQ only if the quantity available to be awarded is less than the DESQ. If the offer fails to indicate the offeror's choice, the offer will be evaluated as though the offeror has indicated willingness to accept the minimum contract quantity.

(5) Any other data required by the NS.

B.19 Mistake in Offer

(a) After opening and recording offers, the Contracting Officer shall examine all offers for mistakes. If the Contracting Officer discovers any price discrepancies or quantity discrepancies, he may obtain from the offeror oral or written verification of the offer actually intended, but in any event, he shall proceed with offer evaluation applying the following procedures:

(1) Price discrepancy: An offer for a DLI must contain the unit price per barrel being offered, the desired quantity of barrels to which the unit price applies, and an extension price which is the total of the quantity desired multiplied by the unit price offered. If there is a discrepancy between the unit price and the extension price, the unit price will govern and be recorded as the offer, unless it is clearly apparent on the face of the offer that there has been a clerical error, in which case the Contracting Officer may correct the offer.

(2) Quantity discrepancy: In case of conflict between the maximum MLI quantity and the stated DLI quantities (for example, if a single stated DLI quantity exceeds the corresponding maximum MLI quantity), the lesser quantity will govern in the evaluation of the offer. In the event that the offer fails to specify a maximum MLI quantity, the offer will be evaluated as though the largest stated DLI quantity is the offer's maximum MLI quantity.

(b) In cases where the Contracting Officer has reason to believe a mistake not covered by the procedures set forth in (a) may have been made, he shall request from the offeror a verification of the offer, calling attention to the suspected mistake. The Contracting Officer may telephone the offeror and confirm the request by electronic means. The Contracting Officer may set a limit of as little as 6 hours for telephone response, with any required written documentation to be received within as little as 2 business days. If no response is received, the Contracting Officer may determine that no error exists and proceed with offer evaluation.

(c) The Head of the Contracting Activity will make administrative determinations described in (1) and (2) of this provision if an offeror alleges a mistake after opening of offers and before award.

(1) The Head of the Contracting Activity may refuse to permit the offeror to withdraw an offer, but permit correction of the offer if clear and convincing evidence establishes both the existence of a mistake and the offer actually intended. However, if such correction would result in displacing one or more higher acceptable offers, the Head of the Contracting Activity shall not so determine unless the existence of the mistake and the offer actually intended are

ascertainable substantially from the NS and offer itself.

(2) The Head of the Contracting Activity may determine that an offeror shall be permitted to withdraw an offer in whole, or in part if only part of the offer is affected, without penalty under the offer guarantee, where the offeror requests permission to do so and clear and convincing evidence establishes the existence of a mistake, but not the offer actually intended.

(d) In all cases where the offeror is allowed to make verbal corrections to the original offer, confirmation of these corrections must be received in writing within the time set by the Contracting Officer or the original offer will stand as submitted.

B.20 Evaluation of Offers

(a) The Contracting Officer will be the determining official as to whether an offer is responsive to the SSPs and the NS. DOE reserves the right to reject any or all offers and to waive minor informalities or irregularities in offers received.

(b) A minor informality or irregularity in an offer is an inconsequential defect the waiver or correction of which would not be prejudicial to other offerors. Such a defect or variation from the strict requirements of the NS is inconsequential when its significance as to price, quantity, quality or delivery is negligible.

B.21 Procedures for Evaluation of Offers

(a) Award on each DLI will be made to the responsible offerors that submit the highest priced offers responsive to the SSPs and the NS and that have provided the required payment and performance guarantee as required by Provision No. C.21.

(b) DOE will array all offers on an MLI from highest price to lowest price for award evaluation regardless of DLI. However, DOE will award against the DLIs and will not award a greater quantity on a DLI than DOE's estimate (which is subject to change at any time) of the maximum quantity that can be moved by the delivery method. Selection of the apparently successful offers involves the following steps:

(1) Any offers below the minimum acceptable price, if any minimum price has been established for the sale, will be rejected as nonresponsive.

(2) All offers on each MLI will be arrayed from highest price to lowest price.

(3) The highest priced offers will be reviewed for responsiveness to the NS.

(4) In the event the highest priced offer does not take all the petroleum available on the MLI, sequentially, the next highest priced offer will be selected until all of the petroleum offered on the MLI is awarded or there are no more acceptable offers. In the event that acceptance of an offer against an MLI or a DLI would result in the sale of more petroleum on an MLI than DOE has offered or the sale of more petroleum on a DLI than DOE estimates can be delivered by the specified delivery method, DOE will not award the full amount of the offer, but rather the remaining MLI quantity or DLI capacity, provided such portion exceeds DOE's minimum contract quantity. In the event that the quantity remaining is less than the offeror is willing to accept, but more than DOE's minimum contract quantity, the Contracting Officer shall proceed to the next highest priced offer.

(5) In the event of tied offers and an insufficient remaining quantity available on the MLI or insufficient remaining capacity on the DLI to fully award all tied offers, the Contracting Officer shall apply an objective random methodology for allocating the remaining MLI quantity or DLI capacity among the tied offers, taking into consideration the quantity the offeror is willing to accept as indicated in its offer. When making this allocation, the Contracting Officer in his sole discretion may do one or more of the following:

(i) Make an additional quantity or capacity available;

(ii) Contact an offeror to determine whether alternative delivery arrangements can be made; or

(iii) Not award all or part of the remaining quantity of petroleum.

(6) The Contracting Officer may reduce the MLI quantity available for award by any amount and reject otherwise acceptable offers if in his sole discretion he determines, after consideration of the offers received on all of the MLIs, that award of those quantities is not in the best interest of the Government because the prices offered for them are not reasonable; or if the Government determines, in light of market conditions after offers are received, to sell less than the overall quantity of SPR petroleum offered for sale.

(7) Determinations of ASO responsibility will be made by the Contracting Officer before each award. All ASOs will be notified and advised to provide to the Contracting Officer, within five business days or such other longer time as the Contracting Officer shall determine, a letter of credit (See Exhibit G, Payment and Performance Letter of Credit) as specified in Provision No. C.21, all letter of credit costs to be borne by the purchaser.

(8) Compliance with required payment and performance guarantees will effectively assure a finding of responsibility of offerors, except where: (i) an offeror is on either DOE's or the Federal Government's list of debarred, ineligible and suspended bidders; or (ii) evidence, with respect to an offeror, comes to the attention of the Contracting Officer of conduct or activity that represents a violation of law or regulation (including an Executive Order); or (iii) evidence is brought to the attention of the Contracting Officer of past activity or conduct of an offeror that shows a lack of integrity (including actions inimical to the welfare of the United States) or willingness to perform, so as to substantially diminish the Contracting Officer's confidence in the offeror's performance under the proposed contract.

B.22 Financial Statements and Other Information

(a) As indicated in Provision No. B.21(b)(8), compliance with the required payment and performance guarantee will in most instances effectively assure a finding of responsibility. Therefore, DOE does not intend to ask for financial information from all offerors. However, after receipt of offers, but prior to making award, DOE reserves the right to ask for the audited financial statements for an offeror's most recent fiscal year and unaudited financial statements for any subsequent quarters. These financial statements must include a balance sheet and profit and loss statement for each period covered thereby. A certification by a principal accounting officer that there have been no material changes in financial condition since the date of the audited statements, and that these present the true financial condition as of the date of the offer, shall accompany the statements. If there has been a change, the amount and nature of the change must be specified and explained in the unaudited statements and a principal accounting officer shall certify that they are accurate. The Contracting Officer shall set a deadline for receipt of this information.

(b) DOE also reserves the right to require the submission of information from the offeror regarding its plans for use of the petroleum, the status of requests for export licenses, plans for complying with the Jones Act, and any other information relevant to the performance of the contract. The Contracting Officer shall set a deadline for receipt of this information.

B.23 Resolicitation Procedures on Unsold Petroleum

(a) In the event that petroleum offered on an MLI remains unsold after evaluation of all offers, the Contracting Officer, at his option, may issue an amendment to the NS, resoliciting offers from all interested parties. DOE reserves the right to alter the MLIs and/or offer different MLIs in the resolicitation.

(b) In the event that for any reason petroleum that has been awarded or allotted for award becomes available to DOE for resale, the following procedures will apply:

(1) If priced offers remain valid in accordance with Provision No. B.24, the petroleum may go to the next highest ranked offer.

(2) If offers have expired in accordance with Provision No. B.24, the Contracting Officer at his option may offer the petroleum to the highest offeror for that MLI. The pertinent offeror may, at its option, accept or reject that petroleum at the price it originally offered. If that offeror rejects the petroleum, it may be offered to the next highest offeror. This process may continue until all the remaining petroleum has been allotted for award.

(3) If the petroleum is not then resold, the Contracting Officer may at his option proceed to amend the NS to resolicit offers for that petroleum or add the petroleum to the next sales cycle.

B.24 Offeror's Certification of Acceptance Period

(a) By submission of an offer, the offeror certifies that its priced offer will remain valid for 10 calendar days after the date set for the receipt of offers, and further that the successful line items of its offer will remain valid for an additional 30 calendar days should it receive a notification of ASO either by telephone or in writing during the initial 10-day period.

(b) By mutual agreement of DOE and the offeror, an individual offeror's acceptance period may be extended for a longer period.

B.25 Notification of Apparently Successful Offeror

The following information concerning its offer will be provided to the apparently successful offeror by DOE in the notification of ASO:

(a) Identification of SPR crude oil streams to be awarded;

(b) Total quantity to be awarded on each MLI and on each DLI;

(c) Price in U.S. dollars per barrel for each DLI;

(d) Extended total price offer for each DLI;

(e) Provisional contract number;

(f) Any other data necessary.

B.26 Contract Documents

If an offeror is successful, DOE will make award using an NA signed by the Contracting Officer. The NA will identify the items, quantities, prices and delivery method which DOE is accepting. Attached to the NA will be the NS and the successful offer. Provisions of the SSPs will be made applicable through incorporation by reference in the NS. The Contracting Officer also shall provide the purchaser with an information copy of the current SSPs as published in the **Federal Register**. DOE may accept the offeror's offer by an electronic notice and the contract award shall be effective upon issuance of such notice. The electronic notice will be followed by a mailing of full documentation as described in Provision B.25.

B.27 Purchaser's Representative

As part of its offer, each offeror shall designate an agent as a point of contact for any telephone calls or correspondence from the Contracting Officer. Any such agent shall have a U.S. address and telephone number and must be conversant in English.

B.28 Procedures for Selling to Other U.S. Government Agencies

(a) If a U.S. Government agency submits an offer for petroleum in a price competitive sale, that offer will be arrayed for award consideration in accordance with Provision No. B.21. If a U.S. Government agency is an ASO, award and payment will be made exclusively in accordance with statutory and regulatory requirements governing transactions between agencies, and the U.S. Government agency will be responsible for complying with these requirements within the time limits set by the Contracting Officer.

(b) U.S. Government agencies are exempt from all guarantee requirements, but must make all necessary arrangements to accept delivery of and transport SPR petroleum as set out in Provision No. C.1. Failure by a U.S. Government agency to comply with any of the requirements of these SSPs shall not provide a basis for challenging a contract award to that agency.

Section C—Sales Contract Provisions

C.1 Delivery of SPR Petroleum

(a) The purchaser, at its expense, shall make all necessary arrangements to accept delivery of and transport the SPR petroleum, except for terminal arrangements which shall be coordinated with the SPR/PMO. The DOE will deliver and the purchaser will accept the petroleum at delivery points listed in the NS. The purchaser also shall be responsible for meeting any delivery requirements imposed at those points including complying with the rules, regulations, and procedures contained in applicable port/terminal manuals, pipeline tariffs or other applicable documents.

(b) For petroleum in the SPR's permanent storage sites, DOE shall provide, at no cost to the purchaser, transportation by pipeline from the SPR to the supporting SPR distribution terminal facility specified for the MLI and, for vessel loadings, a safe berth and loading facilities sufficient to deliver petroleum to the vessel's permanent hose connection. The purchaser agrees to assume responsibility for, to pay for, and to indemnify and hold DOE harmless for any other costs associated with terminal, port, vessel and pipeline services necessary to receive and transport the petroleum, including but not limited to demurrage charges assessed by the terminal, ballast and oily waste reception services other than those provided by DOE or its agent, mooring and line-handling services, tank storage charges and port charges incurred in the delivery of SPR petroleum to the purchaser. The purchaser also agrees to assume responsibility for, to pay for and to indemnify and hold DOE harmless for any liability, including consequential or other damages, incurred or occasioned by the purchaser, its agent, subcontractor at any tier, assignee or any subsequent purchaser, in connection with movement of petroleum sold under a contract incorporating this provision.

C.2 Compliance With the ''Jones Act'' and the U.S. Export Control Laws

Failure to comply with the ''Jones Act,'' 46 U.S.C. 883, regarding use of U.S.-flag vessels in the transportation of oil between points within the United States, and with any applicable U.S. export control laws affecting the export of SPR petroleum will be considered to be a failure to comply with the terms of any contract containing these SSPs and may result in termination for default in accordance with Provision No. C.25. Purchasers who have failed to comply with the ''Jones Act'' or the export control laws in SPR sales may be found to be non-responsible in the evaluation of offers in subsequent sales under Provision No. B.21 of the SSPs. Those purchasers may also be subject to proceedings to make them ineligible for future awards in accordance with 10 CFR Part 625.

C.3 Storage of SPR Petroleum

Continued storage of purchasers' oil in the SPR facilities after the end of the contract delivery periods is not permitted, unless specifically authorized by the Secretary of Energy and provided for in the NS. Allowing petroleum to remain in storage as the result of failure to complete delivery arrangements may result in assessment of liquidated damages under Provision Nos. C.25 through C.27 unless such failure is excused pursuant to those provisions.

C.4 Environmental Compliance

(a) SPR offerors must ensure that vessels used to transport SPR oil comply with all applicable statutes, including the Ports and Waterways Safety Act of 1972; the Port and Tanker Safety of 1972; the Act to Prevent Pollution from Ships of 1980 (implements Annexes I, II, and V of MARPOL 73/78); and the Oil Pollution Act of 1990. Annex I, II, and V of MARPOL 73/78 prescribe procedures for the prevention of pollution by oil, noxious liquid substances, and garbage, respectively. Offerors must also ensure that vessels used to transport SPR oil comply with all applicable regulations, including the following:

CFR citation	Title	Purpose
33 CFR 151	Vessels Carrying Oil, Noxious Liquid Substances, Garbage, Municipal or Commercial Waste, and Ballast Water.	Implements the Act to Prevent Pollution from Ships, as amended and Annexes I, II, and V of the International Convention for the Prevention of Pollution from Ships, as modified by MARPOL 73/78.
33 CFR 153	Control of Pollution by Oil and Hazardous Substances, Discharge Removal.	Prescribes regulations concerning notification of the discharge of oil and hazardous substances, procedures for removing discharges of oil, and the costs associated with removing discharges of oil.
33 CFR 155	Oil or Hazardous Material Pollution Prevention Regulations for Vessels.	Establishes regulations concerning vessel equipment and transfer procedures, including personnel, equipment, and records.
33 CFR 157	Rules for the Protection of the Marine Environment Relating to Tank Vessels Carrying Oil in Bulk.	Establishes regulations governing the design and installation of equipment for vessels and the operation of vessels.

CFR citation	Title	Purpose
33 CFR 159	Marine Sanitation Devices	Prescribes regulations governing the design and construction of marine sanitation devices and procedures for certifying that marine sanitation devices are consistent with EPA regulations promulgated under section 312 of FWPCA, to eliminate the discharge of untreated sewage from vessels.
46 CFR Chapter I, Subchapter D.	Tank Vessels	Sets out design, equipment, and operations requirements relating to pollution prevention from tank vessels.

(b) To transport SPR oil, a purchaser or the purchaser's subcontractors must use only those tankships for which the vessel's owner, operator, or demise charter has made a showing of financial responsibility under 33 CFR part 138, Financial Responsibility for Water Pollution (Vessels).

(c) Failure of the purchaser or the purchaser's subcontractors to comply with all applicable statutes and regulations in the transportation of SPR petroleum will be considered a failure to comply with the terms of any contract containing these SSPs, and may result in termination for default, unless, in accordance with Provision No. C.25, such failure was beyond the control and without the fault or negligence of the purchaser, its affiliates, or subcontractors.

C.5 Delivery and Transportation Scheduling

(a) Unless otherwise instructed in the notification of ASO, each purchaser shall submit a proposed vessel lifting program and/or pipeline delivery schedule to the SPR/PMO by hand-delivery, express mail, or electronic transfer, no later than the fifteenth day prior to the earliest delivery date offered by the NS. The vessel lifting program shall specify the requested three-day loading window for each tanker and the quantity to be lifted. The pipeline schedule will specify the five day shipment ranges (i.e., day 1–5, 6–10, 11–15, etc.) for which deliveries are to be tendered to the pipeline and the quantity to be tendered for each date. In the event conflicting requests are received, preference will be given to such requests in descending order, the highest offered price first. The SPR/PMO will respond to each purchaser no later than the tenth day prior to the start of deliveries, either confirming the schedule as originally submitted or proposing alterations. The purchaser is deemed to have received a notice by hand delivery, express mail, or electronic transfer on the day after dispatch. The purchaser shall be deemed to have agreed to those alterations unless the purchaser requests the SPR/PMO to reconsider within two days after receipt of such alterations. The SPR/PMO will use its best efforts to accommodate such requests, but its decision following any such reconsideration shall be final and binding.

(b) Electronic transfer information, as well as the address to which express mailed and hand-carried proposed schedules should be delivered, will be provided in the notification of ASO.

(c) In order to expedite the scheduling process, at the time of submission of each vessel lifting program or pipeline delivery schedule, each purchaser shall provide the DOE Contracting Officer's Representative with a written notice of the intended destination for each cargo scheduled, if such destination is known at that time. For pipeline deliveries, the purchaser shall also include, if known, the name of each pipeline in the routing to the final destination.

(d) Notwithstanding paragraph (a) of this provision, ASOs and purchasers may request early deliveries, i.e., deliveries commencing prior to the contractual delivery period. DOE will use its best efforts to honor such requests, unless unacceptable costs might be incurred or SPR schedules might be adversely affected or other circumstances make it unreasonable to honor such requests. DOE's decision following any such consideration for a change shall be final and binding. Requests accepted by DOE will be handled on a first-come, first-served basis, except that where conflicting requests are received on the same day, the highest-priced offer will be given preference. Requests that include both a change in delivery method and an early delivery date may also be accommodated subject to Provision No. C.6. DOE may not be able to confirm requests for early deliveries until 24 hours prior to the delivery date.

(e) Not withstanding paragraphs (a) and (d) of this provision, in no event will schedules be confirmed prior to award of contracts.

C.6 Contract Modification—Alternate Delivery Line Items

(a) A purchaser may request a change in delivery method after the issuance of the NA. Such requests may be made either orally (to be confirmed in writing within 24 hours) or in writing, but will require written modification of the contract by the Contracting Officer. Such modification shall be permitted by DOE, provided, in the sole judgement of DOE, the change is viewed as reasonable and would not interfere with the delivery plans of other purchasers, and further provided that the purchaser agrees to pay all increased costs incurred by DOE because of such modification. The NS shall establish per barrel rates for such increased costs.

(b) Changes in delivery method will only be considered after the initial confirmation of schedules described in Provision C.5(a).

C.7 Application Procedures for ''Jones Act'' and Construction Differential Subsidy Waivers

(a) Unless otherwise specified in the Notice of Sale, an ASO or purchaser seeking a waiver of the ''Jones Act'' should submit a request by letter, telegram or electronic means to: U.S. Customs Service, Chief, Carrier Rulings Branch, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229, Telephone: (202) 927–2320, Facsimile: (202) 927–1873.

(b) A purchaser seeking a waiver to use a vessel built with a Construction Differential Subsidy (and, if applicable, operated with an Operating Differential Subsidy) should have the vessel owner submit a waiver request by letter, telegram, or electronic means to: Associate Administrator for Ship Financial Assistance and Cargo Preference, Maritime Administration, U.S. Department of Transportation, 400 7th Street, SW, Washington, D.C. 20590, Fax: (202) 366–7901.

For speed and brevity, the request may incorporate by reference appropriate contents of any earlier ''Jones Act'' waiver request by the purchaser. Under 46 U.S.C. App. 1223, a hearing is also required for any intervenor, and a waiver may not be approved if it will result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service.

(c) Copies of the Jones Act, CDS, or ODS requests should also be sent, as appropriate, to:

(1) Associate Administrator for Port, Intermodal and Environmental Activities, Maritime Administration, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, Fax: (202) 366–7901.

(2) U.S. Department of Energy, ATTN: Deputy Assistant Secretary for Strategic Petroleum Reserve, FE–40, 1000 Independence Avenue, SW, Washington, D.C. 20585, Fax: (202) 586–7919.

(3) Contracting Officer, FE–4451, Strategic Petroleum Reserve Project Management Office, Acquisition and Sales Division, 900 Commerce Road East, New Orleans, LA 70123, Fax: (504) 734–4947.

(d) In addition to the addresses in paragraph (c) of this provision, copies of the ''Jones Act'' request should also be sent to: Assistant Secretary of Defense (Acquisition and Logistics), U.S. Department of Defense, Washington, DC 20301–8000.

(e) Any request for waiver should include the following information:

(1) Name, address and telephone number of requestor;

(2) Purpose for which waiver is sought, e.g., to take delivery of so many barrels of SPR crude oil, with reference to the SPR NS number and the provisional or assigned contract number;

(3) Name and flag of registry of vessel for which waiver is sought, if known at the time of waiver request, and either the scheduled 3-day delivery window(s), if available, or 10-

day delivery period applicable to the contract;

(4) The intended number of voyages, including the ports for loading and discharging;

(5) Estimated period of time for which vessel will be employed; and

(6) Reason for not using qualified U.S.-flag vessel, including documentary evidence of good faith effort to obtain suitable U.S.-flag vessel and responses received from that effort. Such evidence would include copies of correspondence and telephone conversation summaries. Use of commercial brokers and the Transportation News Ticker (TNT) is suggested for maximum market coverage. Requests for waivers by electronic transmittals may reference such documentary evidence, with copies to be provided by mail, postmarked no more than one business day after the transmission requesting the waiver.

(7) For waivers to use Construction Differential Subsidy vessels, the request must also contain a specific agreement for Construction Differential Subsidies payback pursuant to Section 506 of the Merchant Marine Act of 1936 and must be signed by an official of the vessel owner authorized to make a payback commitment.

(f) If there are shown to be ''Jones Act'' vessels available and in a position to meet the loading dates required, no waivers may be approved.

(g) The names of any vessel(s) to be employed under a ''Jones Act'' waiver must be provided to the U.S. Customs Service no later than 3 days prior to the beginning of the 3-day loading window scheduled in accordance with Provision No. C.5.

C.8 Vessel Loading Procedures

(a) After notification of ASO, each ASO shall provide the SPR/PMO a proposed schedule of vessel loading windows in accordance with Provision No. C.5.

(b) The length of the scheduled loading window shall be 3 days. If the purchaser schedules more than one window, the average quantity to be lifted during any single loading window will be no less than DOE's minimum contract quantity.

(c) Tankships, ITBs, and self-propelled barges shall be capable of sustaining a minimum average load rate commensurate with receiving an entire full cargo within twenty-four (24) hours pumping time. Barges with a load rate of not less than 4,000 BPH shall be permitted at the Sun Terminal barge docks. With the consent of the SPR/PMO, lower loading rates and the use of barges at the Sun and Phillips Terminals' suitably equipped tankship docks may be permitted if such do not interfere with DOE's obligations to other parties.

(d) At least 7 days in advance of the beginning of the scheduled loading window, the purchaser shall furnish the SPR/PMO with vessel nominations specifying: (i) Name and size of vessel or advice that the vessel is ''To Be Nominated'' at a later date (such date to be no later than 3 days before commencement of the loading window); (ii) estimated date of arrival (to be narrowed to a firm date not later than 72 hours prior to the first day of the vessel's 3-day window, as provided in paragraph (f) of this provision); (iii) quantity to be loaded and contract number; and (iv) other relevant information requested by the SPR/PMO including but not limited to a copy of the crew list, ship's specifications, last three ports and cargoes, vessel owner/operator and flag, any known deficiencies, and on board quantities of cargo and slops. The listing of all required vessel information shall be provided in the Notice of Sale. DOE will advise the purchaser, in writing, of the acceptance or rejection of the nominated vessel within 24 hours of such nomination. If no advice is furnished within 24 hours, the nomination will be firm. Once established, changes in such nomination details may be made only by mutual agreement of the parties, to be confirmed by DOE in writing. The purchaser shall be entitled to substitute another vessel of similar size for any vessel so nominated, subject to DOE's approval. DOE must be given at least 3 days' notice prior to the first day of the 3-day loading window of any such substitution. DOE shall make a reasonable effort to accept any nomination for which notice has not been given in strict accordance with this provision.

(e) In the event the purchaser intends to use more than one vessel to take delivery of the contract quantity scheduled to be delivered during a loading window, the information in (d) and (f) of this provision shall be provided for each vessel.

(f) The vessel or purchaser shall notify the SPR/PMO of the expected day of arrival 72 hours before the beginning of his scheduled 3-day loading window. This notice establishes the firm agreed-upon date of arrival which is the 1-day window for the purposes of vessel demurrage (see Provision No. C.9). If the purchaser fails to make notification of the expected day of arrival, the 1-day window will be deemed to be the middle day of the scheduled 3-day window. The vessel shall also notify the SPR/PMO of the expected hour of arrival 72, 48 and 24 hours in advance of arrival, and after the first notice, to advise of any variation of more than 4 hours. With the first notification of the hour of arrival, the Master shall advise the SPR/PMO: (i) quantity of oily bilge wastes or sludge requiring discharge ashore; (ii) cargo loading rate requested; (iii) number, size, and material of vessel's manifold connections; and (iv) defects in vessel or equipment affecting performance or maneuverability.

(g) Notice of Readiness shall be tendered upon arrival at berth or at customary anchorage which is deemed to be any anchorage within 6 hours vessel time to the SPR dock. The preferred anchorages are identified in Exhibit E. The Notice of Readiness shall be confirmed promptly in writing to the SPR/PMO and the terminal responsible for coordination of crude oil loading operations. Such notice shall be effective only if given during customary port operating hours. If notice is given after customary business hours of the port, it shall be effective as of the beginning of customary business hours on the next business day.

(h) DOE shall use its best efforts to berth the purchaser's vessel as soon as possible after receipt of the Notice of Readiness.

(i) Standard hose and fittings (American Standard Association standard connections) for loading shall be provided by DOE. Purchasers must arrange for line handling, deballasting, tug boat and pilot services, both for arrival and departure, through the terminal or ship's agent, and bear all costs associated with such services.

(j) Tankships, ITBs, and self-propelled barges shall be allowed berth time of 36 hours. Barges loading at Sun Terminal barge dock facilities shall be allowed berth time of three (3) hours plus the quotient determined by dividing the cargo size (gross standard volume barrels) by four thousand (4,000). Vessels loading cargo quantities in excess of 500,000 barrels shall be allowed berth time of 36 hours plus 1 hour for each 20,000 barrels to be loaded in excess of 500,000 barrels. Conditions in this provision excepted, however, the vessel shall not remain at berth more than 6 hours after completion of cargo loading unless hampered by tide or weather.

(1) Berth time shall commence with the vessel's first line ashore and shall continue until loading of the vessel, or vessels in case more than one vessel is loaded, is completed and the last line is off. In addition, allowable berth time will be increased by the amount of any delay occurring subsequent to the commencement of berth time and resulting from causes due to adverse weather, labor disputes, force majeure and the like, decisions made by port authorities affecting loading operations, actions of DOE, its contractors and agents resulting in delay of loading operations (providing this action does not arise through the fault of the purchaser or purchaser's agent), and customs and immigration clearance. The time required by the vessel to discharge oily wastes or to moor multiple vessels sequentially into berth shall count as used berth time.

(2) For all hours of berth time used by the vessel in excess of allowable berth time provided in this provision, the purchaser shall be liable for dock demurrage and also shall be subject to the conditions of Provision No. C.11.

C.9 Vessel Laytime and Demurrage

(a) The laytime allowed DOE for handling of the purchaser's vessel shall be 36 running hours. For vessels with cargo quantities in excess of 500,000 barrels, laytime shall be 36 running hours plus 1 hour for each 20,000 barrels of cargo to be loaded in excess of 500,000 barrels. Vessel laytime shall commence when the vessel is moored alongside (all fast) the loading berth or 6 hours after receipt of a Notice of Readiness, whichever occurs first. It shall continue 24 hours per day, seven days per week without interruption from its commencement until loading of the vessel is completed and cargo hoses or loading arms are disconnected. Any delay to the vessel in reaching berth caused by the fault or negligence of the vessel or purchaser, delay due to breakdown or inability of the vessel's facilities to load, decisions made by vessel owners or operators or by port authorities affecting loading operations, discharge of ballast or slops, customs and immigration clearance, weather, labor disputes, force majeure and the like shall not count as used laytime. In addition,

movement in roads shall not count as used laytime.

(b) If the vessel is tendered for loading on a date earlier than the firm agreed-upon arrival date, established in accordance with Provision No. C.8, and other vessels are loading or have already been scheduled for loading prior to the purchaser's vessel, the purchaser's vessel shall await its turn and vessel laytime shall not commence until the vessel moors alongside (all fast), or at 0600 hours local time on the firm agreed-upon date of arrival, whichever occurs first. If the vessel is tendered for loading later than 2400 hours on the firm agreed-upon date of arrival, DOE will use its best efforts to have the vessel loaded as soon as possible in its proper turn with other scheduled vessels, under the circumstances prevailing at the time. In such instances, vessel laytime shall commence when the vessel moors alongside (all fast).

(c) For all hours or any part thereof of vessel laytime that elapse in excess of the allowed vessel laytime for loading provided in this provision, demurrage shall be paid by DOE, for U.S.-flag vessels, at the lesser of the demurrage rate in the tanker voyage or charter party agreement, or the most recently available United States Freight Rate Average (USFRA) for a hypothetical tanker with a deadweight in long tons equal to the weight in long tons of the petroleum loaded, multiplied by the most recent edition of the American Tanker Rate Schedule rate for such hypothetical tanker. For foreign flag vessels, demurrage shall be as determined in this provision, except that the London Tanker Brokers' Panel Average Freight Rate Assessment (AFRA) and most recent edition of the New Worldwide Tanker Nominal Freight Scale ''Worldscale'' shall be used as appropriate, if less than the charter party rate. For all foreign flag vessel loadings that commence during a particular calendar month, the applicable AFRA shall be the one that is determined on the basis of freight assessments for the period ended on the 15th day of the preceding month. The demurrage rate for barges will be the hourly rate contained in the charter of a chartered barge, or if it is not a chartered barge, at a rate determined by DOE as a fair rate under prevailing conditions. If demurrage is incurred because of breakdown of machinery or equipment of DOE or its contractors (other than the purchaser), the rate of demurrage shall be reduced to one-half the rate stipulated herein per running hour and pro rata of such reduced rate for part of an hour for demurrage so incurred. Demurrage payable by DOE, however, shall in no event exceed the actual demurrage expense incurred by the purchaser as the result of the delay.

(d) In the event the purchaser is using more than one vessel to load the contract quantity scheduled to be delivered during a single loading window, the terms of this provision and the Government's liability for demurrage apply only to the first vessel presenting its Notice of Readiness in accordance with (a) of this provision.

(e) The primary source document and official record for demurrage calculations is the SPRCODR (see Provision No. C.19).

C.10 Vessel Loading Expedition Options

(a) Notwithstanding Provision No. C.8(j)(1), in order to avoid disruption in the SPR distribution process, the Government may limit berthing time for any vessel receiving SPR petroleum to that period required for loading operations and the physical berthing/unberthing of the vessel. At the direction of the Government, activities not associated with the physical loading of the vessel (e.g., preparing documentation, gauging, sampling, etc.) may be required to be accomplished away from the berth. Time consumed by these activities will not be for the Government's account. If berthing time is to be restricted, the Government will so advise the vessel prior to berthing of the vessel.

(b) In addition to (a) of this provision, the Government may limit vessels calling at SPR terminals to a total of 24 hours for petroleum transfer operations. In such an event, the loading will be considered completed if the vessel has loaded 95 percent or more of the nominated quantity within a total of 24 hours. If the vessel has loaded less than 95 percent of its nominated quantity, then Provision C.11 shall apply.

C.11 Purchaser Liability for Excessive Berth Time

The Government reserves the right to direct a vessel loading SPR petroleum at a delivery point specified in the NS, to vacate its SPR berth, and absorb all costs associated with this movement, should such vessel, through its operational inability to receive oil at the average rates provided for in Provision No. C.8, cause the berth to be unavailable for an already scheduled follow-on vessel. Furthermore, should a breakdown of the vessel's propulsion system prevent its getting under way on its own power, the Government may cause the vessel to be removed from the berth with all costs to be borne by the purchaser.

C.12 Pipeline Delivery Procedures

(a) The purchaser shall nominate his delivery requirements to the pipeline carrier, to include the total quantity to be moved and his preferred five-day shipment range(s) as specified in C.5. The purchaser shall provide confirmation of the carrier's acceptance of the nominated quantity [in thousands of barrels per day] and shipment ranges to the SPR/PMO no later than the last day of the month preceding the month of delivery. The purchaser shall also furnish the SPR/PMO with the name and telephone number of the pipeline point of contact with whom the SPR/PMO should coordinate the petroleum delivery.

(b) The SPR/PMO will ensure oil is made available to the carrier within the shipment date range(s) established in accordance with Provision C.5. Once established, the pipeline delivery schedule can only be changed with SPR/PMO's prior written consent. Should the schedule established in accordance with (a) of this provision vary from the original schedule established in accordance with Provision No. C.5, the Government will provide its best efforts to accommodate this revised schedule but will incur no liability for failure to provide delivery on the dates requested.

(c) Three days prior to the beginning of any five-day shipping range in which the purchaser is to receive delivery, the purchaser shall furnish the SPR/PMO the firm date within that range on which the movement is to commence, the quantity to be moved, and the contract number.

(d) The date of delivery, which will be recorded on the CODR (see Provision No. C.19), is the date delivery commenced to the custody transfer point, as identified in the NS.

(e) The purchaser shall receive pipeline deliveries at a minimum average rate of 100,000 barrels per day. The purchaser is solely responsible for making the necessary arrangements with pipeline carriers, including storage, to achieve the stated minimum.

C.13 Title and Risk of Loss

Unless otherwise provided in the NS, title to and risk of loss for SPR petroleum will pass to the purchaser at the delivery point as follows:

(a) For vessel shipment—when the petroleum passes from the dock loading equipment connections to the vessel's permanent hose connection.

(b) For pipeline shipment—as identified in the NS.

(c) For in-transit shipments—when the petroleum passes the permanent flange of the discharging vessel manifold upon discharge into the purchaser's designated marine terminal facility or vessel.

C.14 Acceptance of Crude Oil

(a) When practical, the NS shall update the SPR crude oil stream characteristics shown in Exhibit D, SPR Crude Oil Comprehensive Analysis. However, the purchaser shall accept the crude oil delivered regardless of characteristics. Except as provided in this provision, DOE assumes no responsibility for deviations in quality.

(b) In the event that the crude oil stream delivered both has a total sulfur content (by weight) in excess of 3.5 percent if Bryan Mound Maya, 2.0 percent if any other sour crude oil stream, or 0.50 percent if a sweet crude oil stream, and, in addition, has an API gravity less than 20°API if Bryan Mound Maya, 28°API if any other sour crude oil stream, or 32°API if a sweet crude oil stream, the purchaser shall accept the crude oil delivered and either pay the contract price adjusted in accordance with Provision No. C.16, or request negotiation of the contract price. Unless the purchaser submits a written request for negotiation of the contract price to the Contracting Officer within 10 days from the date of delivery, the purchaser shall be deemed to have accepted the adjustment of the price in accordance with Provision No. C.16. Should the purchaser request a negotiation of the price and the parties be unable to agree as to that price, the dispute shall be settled in accordance with Provision No. C.32.

C.15 Delivery Acceptance and Verification

(a) The purchaser shall provide written confirmation to SPR/PMO, no later than 72 hours prior to the scheduled date of the first delivery under the contract, the name(s) of the authorized agent(s) given signature

authority to sign/endorse the delivery documentation (CODR, etc.) on the purchaser's behalf. Any changes to this listing of names must be provided to the SPR/PMO in writing no later than 72 hours before the first delivery to which such change applies. In the event that an independent surveyor (separate from the authorized signatory agent) is appointed by the purchaser to witness the delivery operation (gauging, sampling, testing, etc.), written notification must be provided to SPR/PMO, no later than 72 hours prior to the scheduled date of each applicable cargo delivery.

(b) Absence of the provision of the name(s) of bona fide agent(s) and the signature of such agent on the delivery documentation constitutes acceptance of the delivery quantity and quality as determined by DOE and/or its agents.

C.16 Price Adjustments for Quality Differentials

(a) The NS will specify quality price adjustments applicable to the crude oil streams offered for sale. Unless otherwise specified by the NS, quality price adjustments will be applied only to the amount of variation by which the API gravity of the crude oil delivered differs by more than plus or minus five-tenths of one degree API (+/−0.5°API) from the API gravity of the crude oil stream contracted for as published in the NS.

(b) Price adjustments for SPR crude oil are expected to be similar to one or more commercial crude oil postings for equivalent quality crude oil. The contract price per barrel shall be increased by that amount if the API gravity of the crude oil delivered exceeds the published API gravity by more than 0.5°API and decreased by that amount if the API gravity of the crude oil delivered falls below the published API gravity by more than 0.5°API.

C.17 Determination of Quality

(a) The quality of the crude oil delivered to the purchaser will be determined from samples taken from the delivery tanks in accordance with API Manual of Petroleum Measurement Standards, Chapter 8.1, Manual Sampling of Petroleum and Petroleum Products (ASTM D4057), latest edition; or from a representative sample collected by an automatic sampler whose performance has been proven in accordance with the API Manual of Petroleum Measurement Standards, Chapter 8.2, Automatic Sampling of Petroleum and Petroleum Products (ASTM D4177), latest edition. Preference will be given to samples collected by means of an automatic sampler when such a system is available and operational. Tests to be performed by DOE or its authorized contractor are:

(1) Sediment and Water

Primary methods: API Manual of Petroleum Measurement Standards, Chapter 10.1, Determination of Sediment in Crude Oils and Fuel Oils by the Extraction Method (ASTM D473) (IP53), latest edition; or API Manual of Petroleum Measurement Standards, Chapter 10.8, Sediment in Crude Oil by Membrane Filtration (ASTM D4807), latest edition; and API Manual of Petroleum Measurement Standards, Chapter 10.2, Determination of Water in Crude Oil by Distillation (ASTM D4006) (IP358), latest edition; or API Manual of Petroleum Measurement Standards, Chapter 10.9, Water in Crude Oil by Coulometric Karl Fischer Titration (ASTM D4928) (IP 386), latest edition.

Alternate method: API Manual of Petroleum Measurement Standards, Chapter 10.3, Determination of Water and Sediment in Crude Oil by the Centrifuge Method (Laboratory Procedure) (ASTM D4007) (IP 359), latest edition.

(2) Sulfur

Primary method: ASTM D1552, Sulfur in Petroleum Products (High Temperature Method), latest edition.

Alternate method: ASTM D4294, Sulfur in Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry, latest edition.

(3) API Gravity

Primary methods: API Manual of Petroleum Measurement Standards, Chapter 9.1, Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method (ASTM D1298) (IP 160), latest edition; or Density and Relative Density of Crude Oils by Digital Density Analyzer (ASTM D5002), latest edition.

Alternate method: API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method) (ASTM D287), latest edition.

To the maximum extent practicable, the primary methods will be used for determination of SPR crude oil quality characteristics. However, because of conditions prevailing at the time of delivery, it may be necessary to use alternate methods of test for one or more of the quality characteristics. The Government's test results will be binding in any dispute over quality characteristics of SPR petroleum.

(b) The purchaser or his representative may arrange to witness and verify testing simultaneously with the Government Quality Assurance Representatives. Such services, however, will be for the account of the purchaser. Any disputes will be settled in accordance with Provision No. C.32. Should the purchaser opt not to witness the testing, then the Government findings will be binding on the purchaser.

C.18 Determination of Quantity

(a) The quantity of crude oil delivered to the purchaser will be determined by opening and closing tank gauges with adjustment for opening and closing free water and sediment and water as determined from shore tank samples where an automatic sampler is not available, or delivery meter reports. All volumetric measurements will be corrected to net standard volume in barrels at 60°F, using the API Manual of Petroleum Measurement Standards, Chapter 11.1, Volume 1, Volume Correction Factors (ASTM D1250) (IP 200); Table 5A-Generalized Crude Oils, Correction of Observed API Gravity to API Gravity at 60°F; Table 6A-Generalized Crude Oils, Correction of Volume to 60°F Against API Gravity at 60°F, latest edition, and by deducting the tanks' free water, and the entrained sediment and water as determined by the testing of composite all-levels samples taken from the delivery tanks; or by deducting the sediment and water as determined by testing a representative portion of the sample collected by a certified automatic sampler, and also corrected by the applicable pressure correction factor and meter factor.

(b) The quantity measurements shall be performed and certified by the DOE contractor responsible for delivery operations, and witnessed by the Government Quality Assurance Representative at the delivery point. The purchaser shall have the right to have representatives present at the gauging/metering, sampling, and testing. Should the purchaser arrange for additional inspection services, such services will be for the account of the purchaser. Any disputes shall be settled in accordance with Provision No. C.32. Should the purchaser not arrange for additional services, then DOE's quantity determination shall be binding on the purchaser.

C.19 Delivery Documentation

The quantity and quality determination shall be documented on the SPR/PMO Crude Oil Delivery Report (SPRCODR), SPRPMO–F–6110.2–14b (Rev 8/91) (see Exhibit H for copy of this form). The SPRCODR will be signed by the purchaser's agent to acknowledge receipt of the quantity and quality of crude oil indicated. In addition, for vessel deliveries, the time statement on the SPRCODR will be signed by the vessel's Master when loading is complete. Copies of the completed SPRCODR, with applicable supporting documentation (i.e., metering or tank gauging tickets and appropriate calculation worksheets), will be furnished to the purchaser and/or the purchaser's authorized representative after completion of delivery. They will serve as the basis for invoicing and/or reconciliation invoicing for the sale of petroleum as well as for any associated services that may be provided.

C.20 Contract Amounts

The contract quantities and dollar value stated in the NA are estimates. The per barrel unit price is subject to adjustment due to variation in the API gravity from the published characteristics, changes in delivery mode and price index values, if applicable. In addition, due to conditions of vessel loading and shipping or pipeline transmission, the quantity actually delivered may vary by +/−10 percent for each shipment. However, a purchaser is not required to engage additional transportation capacity if sufficient capacity to take delivery of at least 90 percent of the contract quantity has been engaged.

C.21 Payment and Performance Letter of Credit

(a) Within five business days of receipt of notification of Apparently Successful Offeror, the Purchaser must provide to the Contracting Officer an ''Irrevocable Standby Letter of Credit'' established in favor of the United States Department of Energy equal to 100 percent of the contract awarded value

and containing the substantive provisions set out in Exhibit G. The purchaser must furnish an acceptable letter of credit before DOE will execute the NA. The letter of credit MUST NOT VARY IN SUBSTANCE from the sample at Exhibit G. If the letter of credit contains any provisions at variance with Exhibit G or fails to include any provisions contained in Exhibit G, nonconforming provisions must be deleted and missing substantive provisions must be added or the letter of credit will not be accepted. The letter of credit must be effective on or before the first delivery under the contract and remain in effect for a period of 120 days, must permit multiple partial drawings, and must contain the contract number. The original of the letter of credit must be sent to the Contracting Officer.

(b) The letter of credit must be issued by a depository institution located in and authorized to do business in any state of the United States or the District of Columbia, and authorized to issue letters of credit by the banking laws of the United States or any state of the United States or the District of Columbia. The issuing bank must provide documentation indicating that the person signing the letter of credit is authorized to do so, in the form of corporate minutes, the Authorized Signature List, or the General Resolution of Signature Authority.

(c) All wire deposit electronic funds transfer and letter of credit costs will be borne by the purchaser.

(d) The letter of credit must be maintained at 100 percent of the contract value of the petroleum remaining to be delivered, plus any other charges owed to the Government under the contract. In the event the letter of credit falls below the level specified, or at the discretion of the Contracting Officer must be increased because of the effect of the price indexing mechanism provided for in Provision B.2, DOE reserves the right to demand the purchaser modify the letter of credit to a level deemed sufficient by the Contracting Officer. The purchaser shall make such modification within two business days of being notified by the Contracting Officer by express mail or electronic means. The purchaser is deemed to have received such notification the next business day after its dispatch. If such modification is not made within two days after purchaser is deemed to have received the notice, the Contracting Officer may, on the 3rd business day, without prior notice to the purchaser, withhold deliveries in whole or in part under the contract and/or terminate the contract in whole or in part under Provision C.25.

(e) Within 30 calendar days after final payment under the contract, the Contracting Officer shall authorize the cancellation of the letter of credit and shall return it to the bank or financial institution issuing the letter of credit. A copy of the notice of cancellation will be provided to the purchaser.

C.22 Billing and Payment

(a) The Government will invoice the Purchaser at the conclusion of each delivery.

(b) Payment is due in full on the 20th of the month following each delivery month. Should the 20th of the month fall on a Saturday, Sunday, or Federal holiday, payment will be due and payable in full on the last business day preceding the 20th of the month.

(c) If an invoice is not paid in full, the Government may provide the Purchaser oral or written notification that Purchaser is delinquent in its payments; draw against the letter of credit for all quantities for which unpaid invoices are outstanding; withhold all or any part of future deliveries under the contract; and/or terminate the contract, in whole or in part, in accordance with Provision C.25.

(d) In the event that the bank refuses to honor the draft against the letter of credit, the purchaser shall be responsible for paying the principal and any interest due (see Provision No. C.24) from the due date.

C.23 Method of Payments

(a) All amounts payable by the purchaser shall be paid by either:

(1) Deposit to the account of the U.S. Treasury by wire transfer of funds over the Fedwire Deposit System Network. The information to be included in each wire transfer will be provided in the NS.

(2) Electronic funds transfer through the Automated Clearing House (ACH) network, using the Federal Remittance Express Program. The information to be included in each transfer will be provided in the NS.

(b) If the purchaser disagrees with the amounts invoiced by the Government, the purchaser shall immediately pay the amount invoiced, and notify the Contracting Officer of the basis for its disagreement. The Contracting Officer will receive and act upon any such objection. Failure to agree to any adjustment shall be a dispute, and a purchaser shall file a claim promptly in accordance with Provision C.32.

(c) DOE may designate another place, different timing, or another method of payment after reasonable written notice to the purchaser.

(d) Notwithstanding any other contract provision, DOE may via a draft message request a wire transfer of funds against the standby letter of credit at any time for payment of monies due under the contract and remaining unpaid in violation of the terms of the contract. These would include but not be limited to interest, liquidated damages, demurrage, amounts owing for any services provided under the contract, and the difference between the contract price and price received on the resale of undelivered petroleum as defined in Provision No. C.25. If the invoice is for delinquent payments, interest shall accrue from the payment due date.

(e) No payment due DOE hereunder shall be subject to reduction or set-off for any claim of any kind against the United States arising independently of the contract.

C.24 Interest

(a) Amounts due and payable by the purchaser or its bank that are not paid in accordance with the provisions governing such payments shall bear interest from the date due until the date payment is received by the Government.

(b) Interest shall be computed on a daily basis. The interest rate shall be in accordance with the Current Value of Funds rate as established by the Department of the Treasury in accordance with the Debt Collection Improvement Act of 1997 and published periodically in Bulletins to the Treasury Fiscal Requirements Manual and in the **Federal Register**.

C.25 Termination

(a) Immediate Termination

(1) The Contracting Officer may terminate this contract in whole or in part, without liability of DOE, by written notice to the purchaser effective upon its being deposited in the U.S. Postal System addressed to the purchaser as provided in Provision No. C.31 in the event that the purchaser either notifies the Contracting Officer that it will not be able to accept, or fails to accept, any delivery line item in accordance with the terms of the contract. Such notice shall invite the purchaser to submit information to the Contracting Officer as to the reasons for the failure to accept the delivery line item in accordance with the terms of the contract.

(2) Within 10 business days after the issuance of the notice of termination, the Contracting Officer may determine that such termination was a termination for default under paragraph (b)(l)(ii) of this provision. In the absence of information which persuades the Contracting Officer that the purchaser's failure to accept the delivery line item was excusable, the fact of such failure may be the basis for the Contracting Officer determining the purchaser to be in default, without first determining under paragraphs (b)(2) and (b)(3) whether such failure was excusable under the terms of the contract. The Contracting Officer shall promptly give the purchaser written notice of such determination.

(3) Any immediate termination other than one determined to be a termination for default in accordance with paragraph (a)(2) and paragraph (b) of this provision shall be a termination for the convenience of DOE without liability of the Government.

(b) Termination for Default

(1) Subject to the provisions of paragraphs (b)(2) and (b)(3), the Contracting Officer may terminate the contract in whole or in part for purchaser default, without liability of DOE, by written notice to the purchaser, effective upon its being deposited in the U.S. Postal System, addressed to the purchaser as provided in Provision No. C.31 in the event that:

(i) The Government does not receive payment in accordance with any payment provision of the contract;

(ii) The purchaser fails to accept delivery of petroleum in accordance with the terms of the contract; or

(iii) The purchaser fails to comply with any other term or condition of the contract within 5 business days after the purchaser is deemed to have received written notice of such failure from the Contracting Officer.

(2) Except with respect to defaults of subcontractors, the purchaser shall not be determined to be in default or be charged with any liability to DOE under circumstances which prevent the purchaser's acceptance of delivery hereunder due to causes beyond the control and without the

fault or negligence of the purchaser as determined by the Contracting Officer. Such causes shall include but are not limited to:

(i) Acts of God or the public enemy;

(ii) Acts of the Government acting in its sovereign or contractual capacity;

(iii) Fires, floods, earthquakes, explosions, unusually severe weather, or other catastrophes; or

(iv) Strikes.

(3) If the failure to perform is caused by the default of a subcontractor, the purchaser shall not be determined to be in default or to be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the purchaser to meet the delivery schedule, if:

(i) Such default arises out of causes beyond the control of the purchaser and its subcontractor, and without the fault or negligence of either of them; or

(ii) Such default arises out of causes within the control of a transportation subcontractor, not an affiliate of the purchaser, hired to transport the purchaser's petroleum by vessel or pipeline, and such causes are beyond the purchaser's control, without the fault or negligence of the purchaser, and notwithstanding the best efforts of the purchaser to avoid default.

(4) In the event that the contract is terminated in whole or in part for default, the purchaser shall be liable to DOE for:

(i) The difference between the contract price on the contract termination date and any lesser price the Contracting Officer obtained upon resale of the petroleum; and

(ii) Liquidated damages as specified in Provision No. C.27 as fixed, agreed, liquidated damages for each day of delay until the petroleum is delivered to a purchaser under either a resolicitation for the sale of the quantities of oil defaulted on, or an NS issued after the date of default that specifies that it is for the sale of quantities of oil defaulted on. In no event shall liquidated damages be assessed for more than 30 days.

(5) In the event that the Government exercises its right of termination for default, and it is later determined that the purchaser's failure to perform was excused in accordance with paragraphs (b)(2) and (3) of this provision, the rights and obligations of the parties shall be the same as if such termination was a termination for convenience without liability of the Government under paragraph (c) of this provision.

(c) Termination for Convenience

(1) In addition to any other right or remedy provided for in the contract, the Government may terminate this contract at any time in whole or in part whenever the Contracting Officer shall determine that such termination is in the best interest of the Government. Such termination shall be without liability of the Government if such termination arises out of causes specified in (a)(l) or (b)(l) of this provision, acts of the Government in its sovereign capacity, or causes beyond the control and without the fault or negligence of the Government, its contractors (other than the purchaser of SPR crude oil under this contract) and agents. For any other termination for convenience, the Government shall be liable for such reasonable costs incurred by the purchaser in preparing to perform the contract, but under no circumstances shall the Government be liable for consequential damages or lost profits as the result of such termination.

(2) The purchaser will be given immediate written notice of any decrease of petroleum deliveries greater than 10 percent, or of termination, under this paragraph (c). The termination or reduction shall be effective upon its notice being deposited in the U.S. Postal System unless otherwise specified in the notice. The purchaser is deemed to have received a mailed notice on the second day after its dispatch and an electronic or express mail notice on the day after dispatch.

(3) Termination for the convenience of the Government shall not excuse the purchaser from liquidated damages accruing prior to the effective date of the termination.

(d) Nothing herein contained shall limit the Government in the enforcement of any legal or equitable remedy that it might otherwise have, and a waiver of any particular cause for termination shall not prevent termination for the same cause occurring at any other time or for any other cause.

(e) In the event that the Government exercises its right of termination, as provided in paragraphs (a), (b), or (c)(1) of this provision, the Contracting Officer may sell any undelivered petroleum under such terms and conditions as he deems appropriate.

(f) DOE's ability to deliver petroleum on the date on which the defaulted purchaser was scheduled to accept delivery, under another contract awarded prior to the date of the contractor's default, shall not excuse a purchaser that has been terminated for default from either liquidated damages or the difference between the contract price and any lesser price obtained on resale.

(g) Any disagreement with respect to the amount due the Government for either resale costs or liquidated damages shall be deemed to be a dispute and will be decided by the Contracting Officer pursuant to Provision No. C.32.

(h) The term ''subcontractor'' or ''subcontractors'' includes subcontractors at any tier.

C.26 Other Government Remedies

(a) The Government's rights under this provision are in addition to any other right or remedy available to it by law or by virtue of this contract.

(b) The Government may, without liability on its part, withhold deliveries of petroleum under this contract or any other contract the purchaser may have with DOE if payment is not made in accordance with this contract.

(c) If the purchaser fails to take delivery of petroleum in accordance with the delivery schedule developed under the terms of the contract, and such tardiness is not excused under the terms of Provision No. C.25, but the Government does not elect to terminate that item for default, the purchaser nonetheless shall be liable to the Government for liquidated damages in the amount established by Provision No. C.27 for each calendar day of delay or fraction thereof until such time as it accepts delivery of the petroleum. In no event shall such damages be assessed for longer than 30 days. No purchaser that fails to perform in accordance with the terms of the contract shall be excused from liability for liquidated damages by virtue of the fact that DOE is able to deliver petroleum on the date on which the non-performing purchaser was scheduled to accept delivery, under another contract awarded prior to the date of default.

C.27 Liquidated Damages

(a) In case of failure on the part of the purchaser to perform within the time fixed in the contract or any extension thereof, the purchaser shall pay to the Government liquidated damages in the amount of 1 percent of the contract price of the undelivered petroleum per calendar day of delay or fraction thereof in accordance with paragraph (b) of Provision No. C.25 and paragraph (c) of Provision No. C.26.

(b) As provided in (a) of this provision, liquidated damages will be assessed for each day or fraction thereof a purchaser is late in accepting delivery of petroleum in accordance with this contract, unless such tardiness is excused under Provision No. C.25. For petroleum to be lifted by vessel, damages will be assessed in the event that the vessel has not commenced loading by 11:59 p.m. on the second day following the last day of the 3-day delivery window established under Provision No. C.5, unless the vessel has arrived in roads and its Master has presented a notice of readiness to the Government or its agents. Liquidated damages shall continue until the vessel presents its notice of readiness. For petroleum to be moved by pipeline, if delivery arrangements have not been made by the last day of the month prior to delivery, liquidated damages shall commence on the 3rd day of the delivery month until such delivery arrangements are completed; if delivery arrangements have been made, then liquidated damages shall begin on the 3rd day after the scheduled delivery date if delivery is not commenced and shall continue until delivery is commenced.

(c) Any disagreement with respect to the amount of liquidated damages due the Government will be deemed to be a dispute and will be decided by the Contracting Officer pursuant to Provision No. C.32.

C.28 Failure To Perform Under SPR Contracts

In addition to the usual debarment procedures, 10 CFR Section 625.3 provides procedures to make purchasers that fail to perform in accordance with these provisions ineligible for future SPR contracts.

C.29 Government Options in Case of Impossibility of Performance

(a) In the event that DOE is unable to deliver petroleum contracted for to the purchaser due either to events beyond the control of the Government, including actions of the purchaser, or to acts of the Government, its agents, its contractors or subcontractors at any tier, the Government at its option may do either of the following:

(1) Terminate for the convenience of the Government under Provision No. C.25; or

(2) Offer different SPR crude oil streams or delivery times to the purchaser in substitution for those specified in the contract.

(b) In the event that a different SPR crude oil stream than originally contracted for is offered to the purchaser, the contract price will be negotiated between the parties. In no event shall the negotiated price be less than the minimum acceptable price, if established for the same or similar crude oil streams in the most recent NS or determined after the opening of offers.

(c) DOE's obligation in such circumstances is to use its best efforts, and DOE under no circumstances shall be liable to the purchaser for damages arising from DOE's failure to offer alternate SPR crude oil streams or delivery times.

(d) If the parties are unable to reach agreement as to price, crude oil streams or delivery times, DOE may terminate the contract for the convenience of the Government under Provision No. C.25.

C.30 Limitation of Government Liability

DOE's obligation under these SSPs and any resultant contract is to use its best efforts to perform in accordance therewith. The Government under no circumstances shall be liable thereunder to the purchaser for the conduct of the Government's contractors or subcontractors or for indirect, consequential, or special damages arising from its conduct, except as provided herein; neither shall the Government be liable thereunder to the purchaser for any damages due in whole or in part to causes beyond the control and without the fault or negligence of the Government, including but not restricted to, acts of God or public enemy, acts of the Government acting in its sovereign capacity, fires, floods, earthquakes, explosions, unusually severe weather, other catastrophes, or strikes.

C.31 Notices

(a) Any notices required to be given by one party to the contract to the other in writing shall be forwarded to the addressee, prepaid, by U.S. registered, return receipt requested mail, express mail, telegram, or electronic means as provided in the NS. Parties shall give each other written notice of address changes.

(b) Notices to the purchaser shall be forwarded to the purchaser's address as it appears in the offer and in the contract.

(c) Notices to the Contracting Officer shall be forwarded to the following address: U.S. Department of Energy, Strategic Petroleum Reserve, Project Management Office, Acquisition and Sales Division, Mail Stop FE–4451, 900 Commerce Road East, New Orleans, Louisiana 70123.

C.32 Disputes

(a) This contract is subject to the Contract Disputes Act of 1978 (41 U.S.C. Section 601 et seq.). If a dispute arises relating to the contract, the purchaser may submit a claim to the Contracting Officer, who shall issue a written decision on the dispute in the manner specified in 48 CFR 1–33.211.

(b) ''Claim'' means:

(1) A written request submitted to the Contracting Officer;

(2) For payment of money, adjustment of contract terms, or other relief;

(3) Which is in dispute or remains unresolved after a reasonable time for its review and disposition by the Government; and (4) For which a Contracting Officer's decision is demanded.

(c) In the case of dispute requests or amendments to such requests for payment exceeding $50,000, the purchaser shall certify at the time of submission as a claim, as follows:

I certify that the claim is made in good faith, that the supporting data are current, accurate and complete to the best of my knowledge and belief and that the amount requested accurately reflects the contract adjustment for which the purchaser believes the Government is liable.

Purchaser's Name _____

Signature _____

Title _____

(d) The Government shall pay to the purchaser interest on the amount found due to the purchaser on claims submitted under this provision at the rate established by the Department of the Treasury from the date the amount is due until the Government makes payment. The Contract Disputes Act of 1978 and the Prompt Payment Act adopt the interest rate established by the Secretary of the Treasury under the Renegotiation Act as the basis for computing interest on money owed by the Government. This rate is published semi-annually in the **Federal Register**.

(e) The purchaser shall pay to DOE, interest on the amount found due to the Government and unpaid on claims submitted under this provision at the rate specified in Provision No. C.24 from the date the amount is due until the purchaser makes payment.

(f) The decision of the Contracting Officer shall be final and conclusive and shall not be subject to review by any forum, tribunal, or Government agency unless an appeal or action is commenced within the times specified by the Contract Disputes Act of 1978.

(g) The purchaser shall comply with any decision of the Contracting Officer and at the direction of the Contracting Officer shall proceed diligently with performance of this contract pending final resolution of any request for relief, claim, appeal, or action related to this contract.

C.33 Assignment

The purchaser shall not make or attempt to make any assignment of a contract that incorporates these SSPs or any interest therein contrary to the provisions of Federal law, including the Anti-Assignment Act (4l U.S.C. 15), which provides:

No contract or order, or any interest therein, shall be transferred by the party to whom such contract or order is given to any other party, and any such transfer shall cause the annulment of the contract or order transferred, so far as the United States are concerned. All rights of action, however, for any breach of such contract by the contracting parties, are reserved to the United States.

C.34 Order of Precedence

In the event of an inconsistency between the terms of the various parts of this contract, the inconsistency shall be resolved by giving precedence in the following order:

(a) The NA and written modifications thereto;

(b) The NS;

(c) Those provisions of the SSPs (as published in the **Federal Register**) made applicable to the contract by the NS;

(d) The instructions to the SPR Sales Offer Form; and

(e) The successful offer.

C.35 Gratuities

(a) The Government, by written notice to the purchaser, may terminate the right of the purchaser to proceed under this contract if it is found, after notice and hearing, by the Secretary of Energy or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered by or given by the purchaser, or any agent or representative of the purchaser, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding, amending, or making of any determinations with respect to the performing of such contract; provided, that the existence of the facts upon which the Secretary of Energy or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event that this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (l) to pursue the same remedies against the purchaser as it could pursue in the event of a breach of the contract by purchaser, and (2) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary of Energy or his duly authorized representative) which shall not be less than three nor more than 10 times the cost incurred by the purchaser in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

EXHIBITS

A—SPR Sales Offer Form
B—Sample Notice of Sale
C—SPRPMO Form 33S
D—SPR Crude Oil Comprehensive Analysis
E—SPR Delivery Point Data
F—Offer Standby Letter of Credit
G—Payment and Performance Letter of Credit
H—Strategic Petroleum Reserve Crude Oil Delivery Report—SPRPMO–F–6110.2–14b 1/87 REV. 8/91
I—Instruction Guide for Return of Offer Guarantees by Electronic Transfer or Treasury Check
J—Offer Guarantee Calculation Worksheet

BILLING CODE 6450–01–P

Strategic Petroleum Reserve Sales Offer Form

INSTRUCTIONS

1. Maximum MLI Quantity (MAXQ)

For each MLI offered against, offers shall state here, in thousands of barrels, the number of barrels which the offeror seeks to purchase on the MLI, regardless of delivery method. The maximum MLI quantity shall be not less than the DOE's minimum quantity as stated in the Notice of Sale (NS).

2. Delivery Line Items (DLI)

Nominal DLI delivery methods are as follows:

DLI A	Pipeline delivery from first terminal
DLI B, C, D	Tanker delivery from first terminal
DLI E, F, G	Barge delivery from first terminal
DLI H	Pipeline delivery from second terminal
DLI I,J,K	Tanker delivery from second terminal

Pipeline DLIs A and H nominally have a 30-day delivery period. Vessel DLIs B, E, and I have ten day delivery periods nominally from the 1st to the 10th; C, F, and J cover the 11th to the 20th; and D, G, and K cover the 21st to the last day of the period of sale. Additional DLIs may be added when storage sites are connected to more than two pipelines or terminals. However, not all DLIs may be available on a particular MLI. In addition, buyers are cautioned to read the NS carefully as it may alter the period of time covered by each DLI if the period of sale does not correspond to a calendar month.

3. Unit Price (UP$)

The offer shall state the offered price per barrel on each DLI for which the offer indicates a desired DLI quantity. The offer may state either the same unit price for different DLIs or different unit prices. DOE will award the highest price first. Prices may be stated to one-hundredths of a cent ($0.0001), but in no smaller fraction thereof.

4. Delivery Preference (P)

Where the offer has the same unit price for two or more DLIs on the same MLI, the offer may indicate the offerors order of preference for delivery method and period (1st, 2nd, 3rd, etc.). If the offer does not indicate a preference, DOE will select the DLIs to be awarded at its discretion.

5. Desired DLI Quantity (DESQ)

Offers must indicate at least one desired DLI, stating (in thousands of barrels) the number of barrels which the offeror will accept by the delivery method and during the delivery period established for that DLI. An offeror may indicate a willingness to accept alternate delivery methods or delivery periods. An offeror may request all, part or none of the offer's maximum MLI quantity on any particular DLI. A total of all the offeror's desired DLI quantities should total at least the maximum MLI quantity, but could exceed the maximum MLI quantity if the offeror is willing to accept alternate delivery methods or periods. For example, the offer could state:

MLI: 001
Maximum MLI Quantity: 1,000
Desired DLI Quantities:
DLI 001B: 1,000
DLI 001C: 1,000
DLI 001D: 1,000

This would indicate the offeror would be willing to accept one million barrels of Bryan Mound sweet to be delivered to its vessels either from the 1st through the 10th, the 11th through the 20th, or 21st through the end of the month.

6. Minimum Contract Quantity (MINQ)

For each DLI on which an offer is made, the offeror should indicate his willingness to accept as little as DOE's specified minimum contract quantity for that DLI by marking the 'Y' block, or unwillingness to accept less than the DESQ for that DLI by marking the 'N' block. If neither 'Y' or 'N' is indicated, the offer will be evaluated as though the offeror had indicated a 'Y'. DOE only will award less than the offeror's desired DLI quantity if an offer is otherwise successful, but the quantity which DOE has available for award is less than said desired DLI quantity or award of the desired quantity would cause the offeror's MAXQ on the MLI to be exceeded.

7. Total Price

The offer shall calculate the total price (desired DLI quantity times unit price) for each DLI on which an offer is made. The offeror is reminded that DESQ is stated in thousands of barrels.

8. Offer Guarantee

The amount of the offer guarantee is $10 million dollars or 5 percent of the maximum potential contract amount, whichever is less. The maximum potential contract amount is the sum of the products determined by multiplying the offer's maximum purchase quantity for each MLI times the highest offer prices that the offeror would have to pay for that MLI if the offer is successful. To assist in this calculation, instructions and a worksheet are available at Exhibit J. Submission of the worksheet is not desired.

EXHIBIT A

Strategic Petroleum Reserve Sales Offer Form

Offeror Information

Name

Offer Guarantee

Address

City

State

Zipcode -

Country

Telephone -

Agent Information

Name

Address

City

State

Zipcode -

Country

USA

Telephone - -

Exhibit A

DLI=Delivery Line Item (*2, 5)
UP$=Unit Price (U.S. $)/BBL (*3)
P=Preference (*4)

* = See Instructions

Offer

MAXQ=Maximum MLI Quantity (1000 BBL) (*1)
DESQ=Desired DLI Quantity (1000 BBL) (*5)
MINQ=Minimum Contract Quantity (1000 BBL) (*6)

Bryan Mound Sweet MLI 001 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$

Bryan Mound Sour MLI 002 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$

Bryan Mound Maya MLI 003 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$

West Hackberry Sweet MLI 004 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$

Exhibit A

DLI=Delivery Line Item (*2, 5)
UP$=Unit Price (U.S. $)/BBL (*3)
P=Preference (*4)

* = See Instructions

Offer

MAXQ=Maximum MLI Quantity (1000 BBL) (*1)
DESQ=Desired DLI Quantity (1000 BBL) (*5)
MINQ=Minimum Contract Quantity (1000 BBL) (*6)

West Hackberry Sour MLI 005 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
						$
						$
						$
						$
						$
						$
						$
						$

Weeks Island Sour MLI 006 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
						$
						$
						$
						$
						$
						$
						$
						$

RESERVED

Bayou Choctaw Sweet MLI 007 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
						$
						$
						$
						$
						$
						$
						$
						$

Bayou Choctaw Sour MLI 008 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
						$
						$
						$
						$
						$
						$
						$
						$

Exhibit A

DLI=Delivery Line Item (*2, 5)
UP$=Unit Price (U.S. $)/BBL (*3)
P=Preference (*4)

* = See Instructions

Offer

MAXQ=Maximum MLI Quantity (1000 BBL) (*1)
DESQ=Desired DLI Quantity (1000 BBL) (*5)
MINQ=Minimum Contract Quantity (1000 BBL) (*6)

Big Hill Sweet MLI 009 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$

Big Hill Sour MLI 010 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$

By signing below the offeror certifies agreement without exception to all terms and conditions applicable to this sale and that the maximum potential contract amount (Instruction 8) is $_____

Signature: Offeror or Agent _____

Company Name _____

Exhibit A

Exhibit B - Sample Notice of Sale (NS)

1. NS No. DE-NS96-92P0x000x is issued (date) for sale of Strategic Petroleum Reserve (SPR) crude oil. All references to "Provision No." refer to the Standard Sales Provisions (SSPs) published in the Federal Register (date). All provisions are applicable to this sale except that provision No(s). (give number or numbers) are supplemented or modified to read: (give changes). Additional requirements applicable to this sale are as follows: (give text).

   (Note: Should the SSPs be extensively changed, the Notice of Sale (NS) may include, for information purposes only, a complete text of the SSPs as modified for the sale. Offerors are cautioned, however, that these modified complete text SSPs have no contractual status and that in the event of any inconsistencies, the published SSPs and the NS shall establish the terms and conditions for the sale.)

2. Mailed and handcarried offers and offer guarantees must be received by 3:00 p.m. local time on (date) at (address). Offer guarantees sent by wire transfer must also be received at the U.S. Treasury by the time stated above.

3. Offerors must give names, addresses and telephone numbers, including area codes, for authorized representative of the offeror with whom the Government may conduct any necessary discussions, including financial.

4. Direct questions regarding NS to (name of individual), telephone (504) 734-4660. Collect calls will not be accepted.

5. Master Line Item (MLI) numbers given herein refer to those schedules attached as Exhibit A of the SSPs. The quantities for each MLI offered for sale are as follows:

   MLI 001: ____ bbls; MLI 002 not offered this sale; MLI 003: ____ bbls;
   MLI 004: ____ bbls; MLI 005 not offered this sale; MLI 006 not offered this sale;
   MLI 007: ____ bbls; MLI 008: ____ bbls; MLI 009 not offered this sale; MLI 010: ___ bbls.

6. Offered delivery line items (DLI) and their maximums, i.e., offered DLIs and the Department of Energy's best estimates of the maximum amount of petroleum that can be moved by each delivery line item transportation system over the delivery period, are as follows (see provision No. B.17 of the SSPs):

7. Minimum quantities which will be awarded for each delivery line item (DLI) are as follows:

8. Consideration to be paid for alteration of contract delivery modes in accordance with provision No. C.6 is as follows:

9. Applicable quality differentials are plus or minus ___ ¢ per degree API gravity, or part

thereof, for sweet crude oil streams, and plus or minus ___ ¢ per one-tenth degree API gravity for sour crude oil streams. These quality adjustments will only be applied to the amount of variation by which the API gravity of the crude oil delivered differs by more than plus or minus five-tenths of one degree API (+/- 0.5° API) from the API gravity of the crude oil stream contracted for as published in this Notice of Sale.

10. The following information is provided in connection with SSP Provision No. B.4 "'Superfund' tax on SPR petroleum - caution to offerors":

11. All offerors and purchasers are cautioned that letters of credit must not vary in substance from the sample provided in Exhibits F and G. Nonconforming provisions must be deleted and missing substantive provisions must be added or the letter of credit will not be accepted.. It is recommended, therefore, that offerors/purchasers review letters of credit issued on their behalf, to assure their full compliance with the above cited Exhibits.

12. The information to be included for payment by wire transfer of funds over the Federal Deposit System Network is provided in Attachment __. Information to be included for payment by electronic funds transfer using the Automated Clearing House Network is provided in Attachment __.

EXHIBIT "C" **SPRPMO FORM 33S**

GOVERNMENT PROPERTY SALES CONTRACT	**CONTRACT NUMBER**	**PAGE** 1 of 1

This contract is entered into by and between the United States of America, hereinafter called the "Government," represented by the Contracting Officer executing this contract and the Purchaser below identified. The Government agrees to sell and the Purchaser agrees to buy the material described below in accordance with the terms and conditions of _____, incorporated herein by reference.

ACKNOWLEDGMENT OF AMENDMENTS	**AMENDMENT NO.**	**DATE**
The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated:		

EXECUTION BY PURCHASER

NAME OF PURCHASER

ADDRESS (Street, City, State & Zip Code) (Type or Print)

_____ _____

SIGNATURE AND TITLE OF PERSON AUTHORIZED TO SIGN THIS CONTRACT (Type or print name and title under signature) **DATE**

EXECUTION BY GOVERNMENT

Items on the attached NOTICE OF ACCEPTANCE are accepted.

UNITED STATES OF AMERICA BY:

_____ _____

NAME AND SIGNATURE OF CONTRACTING OFFICER **DATE**

EXHIBIT D

SPR CRUDE OIL COMPREHENSIVE ANALYSIS

Sample ID **MLI 001** **BRYAN MOUND SWEET** **Date of Assay** **5/15/1998**

Crude							
Specific Gravity, 60/60° F	0.8454	Ni, ppm	3.41	RVP, psi @ 100° F			5.28
API Gravity	35.9	V, ppm	4.12	Acid number, mg KOH/g			0.10
Sulfur, Wt. %	0.33	Fe, ppm	0.822	Mercaptan Sulfur, ppm			7.26
Nitrogen, Wt. %	0.111	Cu, ppm	na	H_2S Sulfur, ppm			na
Micro Car. Res., Wt. %	2.21	Org. Cl, ppm	na	Viscosity: 77° F	6.99	cSt	
Pour Point, °F	25	UOP "K"	11.96	100° F	4.666	cSt	

Fraction	Gas	1	2	3	4	5	6	Residuum	Residuum
Cut Temp.	C_2 - C_4	C5 - 175° F	175° - 250° F	250° - 375° F	375° - 530° F	530° - 650° F	650° - 1050° F	650° F+	1050° F+
Vol. %	1.9	7.0	8.2	14.1	16.8	12.5	28.8	39.6	10.8
Vol. Sum %	1.9	8.8	17.0	31.1	47.9	60.4	89.2	100.0	100.0
Wt. %	1.3	5.5	7.2	12.9	16.5	12.7	31.1	43.9	12.8
Wt. Sum %	1.3	6.8	14.0	26.9	43.4	56.1	87.2	100.0	100.0
Specific Gravity, 60/60° F		0.6747	0.7391	0.7774	0.8275	0.8604	0.9143	0.9371	0.998
API Gravity		78.2	60.0	50.5	39.5	33.0	23.3	19.5	10.4
Sulfur, Wt. %		0.0013	0.0018	0.0113	0.07	0.25	0.51	0.65	0.98
Molecular Weight		96	111	134	185	245	403		
Hydrogen, Wt. %		15.88	14.73	na				12.91	10.82
Mercaptan Sulfur, ppm		3.6	8.8	27.8	19.4				
H_2S Sulfur, ppm		< 0.1	< 0.1	< 0.1	< 0.1				
Organic Cl, ppm		4.1	1.0	0.1	< 0.1				
Research Octane Number		69.9	62.4	46.7					
Motor Octane Number		67.5	60.0	44.8					
Flash Point, ° F				77	172	246	301		
Aniline Point, ° F				123.0	143.2	163.0	194.1		
Acid Number, mg KOH/g					0.04	0.10			
Cetane Index					45.5	51.0			
Diesel Index				62.1	56.6	53.7			
Naphthalenes, Vol. %					4.83	10.24			
Smoke point, mm					19.9	15.6			
Nitrogen, Wt. %					0.0006	0.010	0.154	0.276	0.572
Viscosity, cSt 77° F					2.537				
100° F					1.990	5.691			
130° F						3.814	39.07	109.5	
180° F							14.77	32.12	2923
210° F									920.6
250° F									143.5
Freezing Point, °F					-28.1				
Cloud Point, °F						31.1	105		
Pour Point, °F						27.0	101	85	
Ni, ppm								7.66	25.8
V, ppm								9.29	31.4
Fe, ppm								6.41	21.6
Cu, ppm								na	na
Micro Car. Res., Wt. %								5.00	17.25

Compositional Analysis, MLI 001 BRYAN MOUND SWEET

	Gas	1	2	3
	IBP 59° F	59 - 175° F	175° - 250° F	250° - 375° F
Paraffins, Wt.%	99.85	77.86	52.61	41.48
Naphthenes, Wt.%	0.15	20.86	40.54	36.50
Aromatics, Wt.%	0.00	1.28	6.86	22.02
Benzene Precursor Index	0.03	11.14	5.14	0.02
Composition, Wt.%				
Ethane	0.21	-	-	-
Propane	16.33	0.00	0.00	0.00
N-Butane	54.66	1.47	0.00	0.00
I-Butane	14.43	0.08	0.00	0.00
N-Pentane	4.39	18.44	0.04	0.00
I-Pentane	9.36	12.64	0.01	0.00
Cyclopentane	0.16	4.16	0.05	0.00
N-Hexane	0.05	15.87	2.93	0.00
2-Methylpentane	0.10	10.93	0.63	0.00
3-Methylpentane	0.04	6.59	0.58	0.00
2,2-Dimethtylbutane	0.01	0.16	0.00	0.00
2,3-Dimethlybutane	0.04	3.03	0.13	0.00
Methylcyclopentane	0.02	10.50	2.98	0.00
Cyclohexane	0.01	5.16	4.99	0.01
Benzene	0.00	1.54	1.37	0.00
N-Heptane	0.00	1.18	12.64	0.13
2-Methylhexane	0.00	1.39	4.82	0.02
3-Methylhexane	0.00	1.22	5.38	0.02
2-2-Dimethylpentane	0.00	0.30	0.23	0.00
2,3-Dimethylpentane	0.00	0.85	2.85	0.01
2,4-Dimethylpentane	0.00	0.32	0.30	0.00
3,3-Dimethylpentane	0.00	0.11	0.23	0.00
2,3,3-Trimethylbutane	0.00	0.04	0.04	0.00
3-Ethylpentane	0.00	0.05	0.28	0.00
1,1-Dimethylcyclopentane	0.00	0.04	0.09	0.00
1,Cis-2-DimethylcyC5	0.00	0.07	0.82	0.01
1,Cis-3-DimethylcyC5	0.00	0.57	2.48	0.01
1-Trans-2-DimethcyC5	0.00	0.92	4.08	0.02
1-Trans-3-DimethcyC5	0.00	0.80	3.08	0.01
Ethylcyclopentane	0.00	0.11	2.18	0.04
Methylcyclohexane	0.00	1.14	17.08	0.24
Toluene (Methylbenzene)	0.00	0.12	5.94	0.31
N-Octane	0.00	0.02	3.77	1.54
I-Octane	0.00	0.14	14.16	2.10
Methyl-Ethylcyclopentane	0.00	0.04	4.22	0.63
Dimethylcyclohexane	0.00	0.00	0.65	0.97
P-Xylene	0.00	0.00	0.00	0.00
M-Xylene	0.00	0.00	0.00	0.00
O-Xylene	0.00	0.00	0.00	0.00
Ethylbenzene	0.00	0.00	0.00	0.00
N-Nonane	0.00	0.00	0.00	0.00
C9 isoparaffins	0.00	0.00	0.71	1.54

SPR CRUDE OIL COMPREHENSIVE ANALYSIS

Sample ID **MLI 002** **BRYAN MOUND SOUR** **Date of Assay** **5/15/1998**

Crude							
Specific Gravity, 60/60° F	0.8580	Ni, ppm	10.9	RVP, psi @ 100° F			4.03
API Gravity	33.4	V, ppm	49.3	Acid number, mg KOH/g			0.10
Sulfur, Wt. %	1.38	Fe, ppm	0.760	Mercaptan Sulfur, ppm			16.0
Nitrogen, Wt. %	0.147	Cu, ppm	na	H_2S Sulfur, ppm			na
Micro Car. Res., Wt. %	4.37	Org. Cl, ppm	na	Viscosity: 77° F	8.342	cSt	
Pour Point, °F	-5	UOP "K"	11.89	100° F	5.991	cSt	

Fraction	Gas	1	2	3	4	5	6	Residuum	Residuum
Cut Temp.	C_2 - C_4	C5 - 175° F	175° - 250° F	250° - 375° F	375° - 530° F	530° - 650° F	650° - 1050° F	650° F+	1050° F+
Vol. %	1.4	6.7	7.3	15.5	15.8	9.9	28.6	43.5	14.9
Vol. Sum %	1.4	8.1	15.4	30.8	46.6	56.5	85.1	100.0	100.0
Wt. %	1.0	5.2	6.2	13.9	15.1	10.0	30.8	48.7	17.9
Wt. Sum %	1.0	6.1	12.3	26.2	41.3	51.3	82.1	100.0	100.0
Specific Gravity, 60/60° F		0.6652	0.7279	0.7716	0.8205	0.8608	0.9247	0.9616	1.033
API Gravity		81.2	62.9	51.9	41.0	32.9	21.5	15.7	5.5
Sulfur, Wt. %		0.0057	0.0074	0.0457	0.40	1.10	1.93	2.46	3.38
Molecular Weight		97	111	135	184	244	413		
Hydrogen, Wt. %		16.11	14.94	na				12.03	9.72
Mercaptan Sulfur, ppm		25.8	30.9	56.4	19.8				
H_2S Sulfur, ppm		3.3	6.4	4.0	< 0.1				
Organic Cl, ppm		15.0	3.8	< 0.1	1.0				
Research Octane Number		64.6	53.6	46.6					
Motor Octane Number		63.5	52.0	43.0					
Flash Point, ° F				79	172	246	303		
Aniline Point, ° F				125.9	146.7	160.3	180.8		
Acid Number, mg KOH/g					0.02	0.04			
Cetane Index					49.2	50.6			
Diesel Index				65.3	60.1	52.7			
Naphthalenes, Vol. %					4.06	10.40			
Smoke point, mm					20.1	15.1			
Nitrogen, Wt. %					0.0015	0.016	0.161	0.313	0.574
Viscosity, cSt 77° F					2.336				
100° F					1.874	4.970			
130° F						3.360	30.21	193.7	
180° F							11.96	50.97	27920
210° F									5708
250° F									469.6
Freezing Point, °F					-26.03				
Cloud Point, °F						26.6	97		
Pour Point, °F						22.0	87	56	
Ni, ppm								22.7	61.6
V, ppm								102	277
Fe, ppm								2.792	7.87
Cu, ppm								na	na
Micro Car. Res., Wt. %								9.03	24.41

Compositional Analysis, MLI 002 BRYAN MOUND SOUR

	Gas IBP 59° F	1 59 - 175° F	2 175° - 250° F	3 250° - 375° F
Paraffins, Wt.%	99.90	87.22	67.40	62.27
Naphthenes, Wt.%	0.10	11.68	25.12	13.59
Aromatics, Wt.%	0.00	1.11	7.49	24.14
Benzene Precursor Index	0.03	8.45	3.53	0.01
Composition, Wt.%				
Ethane	0.17	-	-	-
Propane	12.96	0.00	0.00	0.00
N-Butane	56.18	1.24	0.00	0.00
I-Butane	12.90	0.06	0.00	0.00
N-Pentane	6.26	21.46	0.05	0.00
I-Pentane	10.91	12.04	0.01	0.00
Cyclopentane	0.11	2.30	0.03	0.00
N-Hexane	0.08	20.89	4.07	0.00
2-Methylpentane	0.14	12.82	0.78	0.00
3-Methylpentane	0.06	8.04	0.74	0.00
2,2-Dimethtylbutane	0.01	0.18	0.00	0.00
2,3-Dimethlybutane	0.03	1.77	0.08	0.00
Methylcyclopentane	0.02	6.22	1.86	0.00
Cyclohexane	0.00	2.81	2.86	0.01
Benzene	0.00	1.34	1.25	0.00
N-Heptane	0.00	1.74	19.68	0.27
2-Methylhexane	0.00	1.55	5.68	0.03
3-Methylhexane	0.00	1.36	6.35	0.04
2-2-Dimethylpentane	0.00	0.33	0.27	0.00
2,3-Dimethylpentane	0.00	0.95	3.36	0.02
2,4-Dimethylpentane	0.00	0.36	0.35	0.00
3,3-Dimethylpentane	0.00	0.13	0.27	0.00
2,3,3-Trimethylbutane	0.00	0.04	0.05	0.00
3-Ethylpentane	0.00	0.06	0.33	0.00
1,1-Dimethylcyclopentane	0.00	0.02	0.05	0.00
1,Cis-2-DimethylcyC5	0.00	0.04	0.46	0.01
1,Cis-3-DimethylcyC5	0.00	0.30	1.39	0.01
1-Trans-2-DimethcyC5	0.00	0.49	2.29	0.01
1-Trans-3-DimethcyC5	0.00	0.43	1.73	0.01
Ethylcyclopentane	0.00	0.06	1.22	0.03
Methylcyclohexane	0.00	0.64	10.14	0.19
Toluene (Methylbenzene)	0.00	0.13	6.47	0.45
N-Octane	0.00	0.04	6.56	3.58
I-Octane	0.00	0.14	15.08	3.00
Methyl-Ethylcyclopentane	0.00	0.04	4.46	0.89
Dimethylcyclohexane	0.00	0.00	0.57	1.12
P-Xylene	0.00	0.00	0.00	0.00
M-Xylene	0.00	0.00	0.00	0.00
O-Xylene	0.00	0.00	0.00	0.00
Ethylbenzene	0.00	0.00	0.00	0.00
N-Nonane	0.00	0.00	0.00	0.00
C9 isoparaffins	0.00	0.00	1.23	3.56

SPR CRUDE OIL COMPREHENSIVE ANALYSIS

Sample ID **MLI 003 Bryan Mound Maya** Date of Assay **3/13/1998**

Crude							
Specific Gravity, 60/60° F	0.9176	Ni, ppm	51.1	RVP, psi @ 100° F			2.58
API Gravity	22.7	V, ppm	266.0	Acid number, mg KOH/g			0.12
Sulfur, Wt. %	3.17	Fe, ppm	1.100	Mercaptan Sulfur, ppm			16.3
Nitrogen, Wt. %	0.331	Cu, ppm	na	H_2S, dissolved, ppm			na
Micro Car. Res., Wt. %	10.60	Org. Cl, ppm	na	Viscosity: 77° F	123.4	cSt	
Pour Point, °F	-5	UOP "K"	11.65	100° F	55.230	cSt	

Fraction	Gas	1	2	3	4	5	6	Residuum	Residuum
Cut Temp.	C_2 - C_4	C5 - 175° F	175° - 250° F	250° - 375° F	375° - 530° F	530° - 650° F	650° - 1050° F	650° F+	1050° F+
Vol. %	2.1	5.2	4.2	10.1	12.1	8.9	29.1	57.5	28.4
Vol. Sum %	2.1	7.2	11.4	21.5	33.6	42.5	71.6	100.0	100.0
Wt. %	1.3	3.8	3.3	8.5	11.0	8.5	30.1	63.7	33.6
Wt. Sum %	1.3	5.0	8.3	16.8	27.8	36.3	66.4	100.0	100.0
Specific Gravity, 60/60° F		0.6616	0.7226	0.7693	0.8241	0.8692	0.9420	1.0090	1.078
API Gravity		82.4	64.3	52.5	40.2	31.3	18.7	8.7	-0.2
Sulfur, Wt. %		0.0054	0.0292	0.2344	1.01	1.90	3.08	4.52	5.80
Molecular Weight		97	111	137	184	245	371		
Hydrogen, Wt. %		16.18	15.11	na				10.45	8.41
Mercaptan Sulfur, ppm		63.6	109.9	103.6	10.9				
H_2S, evolved, ppm		2.0	2.0	1.1	< 0.1				
Organic Cl, ppm		na	10.3	5.4	0.1				
Research Octane Number		65.9	52.4	28.8					
Motor Octane Number		64.7	50.9	26.6					
Flash Point, ° F				82	171	247	300		
Aniline Point, ° F				124.4	137.9	148.8	166.3		
Acid Number, mg KOH/g					0.02	0.03			
Cetane Index					47.3	48.1			
Diesel Index				65.3	55.4	46.6			
Naphthalenes, Vol. %					3.82	10.62			
Smoke point, mm					19.0	14.3			
Nitrogen, Wt. %					0.0027	0.028	0.231	0.524	0.787
Viscosity, cSt 77° F					2.266				
100° F					1.717	5.038			
130° F						3.326	41.82	9416	
180° F							14.42	922.0	
210° F									770300
250° F									24700
Freezing Point, °F					-32.3				
Cloud Point, °F						25.2	91		
Pour Point, °F						21.2	87	100	
Ni, ppm								79.7	151
V, ppm								418	792
Fe, ppm								10.8	20.4
Cu, ppm								na	na
Micro Car. Res., Wt. %								17.99	32.70

Compositional Analysis, MLI 003 Bryan Mound Maya

	Gas IBP 59° F	1 59 - 175° F	2 175° - 250° F	3 250° - 375° F
Paraffins, Wt.%	99.94	88.40	69.40	65.80
Naphthenes, Wt.%	0.06	10.76	25.10	16.28
Aromatics, Wt.%	0.00	0.84	5.50	17.93
Benzene Precursor Index	0.02	7.82	4.12	0.01
Composition - wt%				
Ethane	3.10	-	-	-
Propane	27.90	0.00	0.00	0.00
N-Butane	45.04	1.77	0.00	0.00
I-Butane	12.96	0.11	0.00	0.00
N-Pentane	3.77	23.05	0.07	0.00
I-Pentane	6.98	13.73	0.01	0.00
Cyclopentane	0.06	2.43	0.04	0.00
N-Hexane	0.04	19.19	4.93	0.01
2-Methylpentane	0.08	12.83	1.03	0.00
3-Methylpentane	0.04	8.62	1.04	0.00
2,2-Dimethtylbutane	0.00	0.00	0.00	0.00
2,3-Dimethlybutane	0.02	1.84	0.11	0.00
Methylcyclopentane	0.01	6.00	2.37	0.00
Cyclohexane	0.00	2.30	3.09	0.01
Benzene	0.00	1.05	1.30	0.00
N-Heptane	0.00	1.37	20.44	0.37
2-Methylhexane	0.00	1.26	6.10	0.04
3-Methylhexane	0.00	1.11	6.81	0.05
2-2-Dimethylpentane	0.00	0.27	0.29	0.00
2,3-Dimethylpentane	0.00	0.78	3.60	0.02
2,4-Dimethylpentane	0.00	0.29	0.38	0.00
3,3-Dimethylpentane	0.00	0.10	0.29	0.00
2,3,3-Trimethylbutane	0.00	0.04	0.05	0.00
3-Ethylpentane	0.00	0.05	0.35	0.00
1,1-Dimethylcyclopentane	0.00	0.02	0.06	0.00
1,Cis-2-DimethylcycloC5	0.00	0.03	0.53	0.01
1,Cis-3-DimethylcycloC5	0.00	0.26	1.59	0.01
1-Trans-2-DimethcycloC5	0.00	0.42	2.62	0.02
1-Trans-3-DimethcycloC5	0.00	0.37	1.98	0.01
Ethylcyclopentane	0.00	0.05	1.40	0.05
Methylcyclohexane	0.00	0.44	9.10	0.23
Toluene (Methylbenzene)	0.00	0.07	4.64	0.43
N-Octane	0.00	0.02	5.54	4.07
I-Octane	0.00	0.10	13.77	3.68
Methyl-Ethylcyclopentane	0.00	0.02	3.24	0.87
Dimethylcyclohexane	0.00	0.00	0.67	1.77
P-Xylene	0.00	0.00	0.32	1.36
M-Xylene	0.00	0.00	0.12	0.57
O-Xylene	0.00	0.00	0.08	0.81
Ethylbenzene	0.00	0.00	0.19	0.58
N-Nonane	0.00	0.00	0.18	4.12
C9 Isoparaffins	0.00	0.00	1.54	6.02
Isobutylcyclopentane	0.00	0.00	0.03	0.13
Isopropylcyclohexane	0.00	0.00	0.11	1.35
C9 Aromatics	0.00	0.00	0.00	0.09

SPR CRUDE OIL COMPREHENSIVE ANALYSIS

Sample ID **MLI 004** **WEST HACKBERRY SWEET** Date of Assay **5/15/1998**

Crude							
Specific Gravity, 60/60° F	0.8397	Ni, ppm	2.61	RVP, psi @ 100° F			5.27
API Gravity	37.0	V, ppm	4.07	Acid number, mg KOH/g			0.09
Sulfur, Wt. %	0.29	Fe, ppm	1.50	Mercaptan Sulfur, ppm			3.8
Nitrogen, Wt. %	0.102	Cu, ppm	na	H_2S Sulfur, ppm			na
Micro Car. Res., Wt. %	1.89	Org. Cl, ppm	na	Viscosity: 77° F	5.714	cSt	
Pour Point, °F	28	UOP "K"	11.95	100° F	3.913	cSt	

Fraction	Gas	1	2	3	4	5	6	Residuum	Residuum
Cut Temp.	C_2 - C_4	C5 - 175° F	175° - 250° F	250° - 375° F	375° - 530° F	530° - 650° F	650° - 1050° F	650° F+	1050° F+
Vol. %	2.5	8.8	8.7	13.9	17.6	10.4	28.2	38.0	9.8
Vol. Sum %	2.5	11.4	20.1	34.0	51.6	62.1	90.3	100.0	100.0
Wt. %	1.7	7.1	7.7	12.9	17.4	10.7	30.7	42.3	11.6
Wt. Sum %	1.7	8.8	16.5	29.4	46.9	57.5	88.3	99.8	99.8
Specific Gravity, 60/60° F		0.6710	0.7422	0.7794	0.8306	0.8593	0.9148	0.9351	0.995
API Gravity		79.4	59.2	50.1	38.9	33.2	23.2	19.8	10.8
Sulfur, Wt. %		0.0012	0.0010	0.0064	0.07	0.20	0.47	0.60	0.95
Molecular Weight		96	111	133	184	244	415		
Hydrogen, Wt. %		15.91	14.55	na				12.99	10.91
Mercaptan Sulfur, ppm		2.5	5.4	10.9	8.9				
H_2S Sulfur, ppm		0.0	0.0	0.1	0.0				
Organic Cl, ppm		14.5	4.3	0.1	0.7				
Research Octane Number		69.2	62.1	52.0					
Motor Octane Number		67.3	59.5	48.6					
Flash Point, ° F				77	173	245	302		
Aniline Point, ° F				120.5	144.2	163.4	192.5		
Acid Number, mg KOH/g					0.04	0.11			
Cetane Index					45.5	51.1			
Diesel Index				60.3	56.0	54.2			
Naphthalenes, Vol. %					5.29	9.73			
Smoke point, mm					19.0	15.4			
Nitrogen, Wt. %					0.0007	0.009	0.166	0.271	0.551
Viscosity, cSt 77° F					2.693				
100° F					2.108	5.357			
130° F						3.607	36.99	92.87	
180° F							14.22	27.84	2527
210° F									834.2
250° F									139.5
Freezing Point, °F					-23.9				
Cloud Point, °F						29.3	106		
Pour Point, °F						22.5	102	92	
Ni, ppm								6.40	23.3
V, ppm								9.73	35.4
Fe, ppm								6.48	22.9
Cu, ppm								na	na
Micro Car. Res., Wt. %								4.52	16.20

Compositional Analysis, MLI 004 WEST HACKBERRY SWEET

	Gas	1	2	3
	IBP 59° F	59 - 175° F	175° - 250° F	250° - 375° F
Paraffins, Wt.%	99.88	80.11	50.92	28.89
Naphthenes, Wt.%	0.11	18.14	39.93	45.85
Aromatics, Wt.%	0.00	1.75	9.15	25.26
Benzene Precursor Index	0.03	10.61	6.18	0.02
Composition, Wt.%				
Ethane	0.17	-	-	-
Propane	14.12	0.00	0.00	0.00
N-Butane	57.43	1.66	0.00	0.00
I-Butane	13.41	0.08	0.00	0.00
N-Pentane	4.94	22.27	0.06	0.00
I-Pentane	9.50	13.76	0.01	0.00
Cyclopentane	0.12	3.39	0.05	0.00
N-Hexane	0.05	15.59	3.33	0.01
2-Methylpentane	0.09	11.22	0.75	0.00
3-Methylpentane	0.04	6.73	0.68	0.00
2,2-Dimethtylbutane	0.01	0.20	0.00	0.00
2,3-Dimethlybutane	0.01	1.12	0.05	0.00
Methylcyclopentane	0.02	9.18	3.02	0.01
Cyclohexane	0.01	5.18	5.79	0.02
Benzene	0.00	2.16	2.22	0.01
N-Heptane	0.00	1.10	13.68	0.34
2-Methylhexane	0.00	1.06	4.27	0.04
3-Methylhexane	0.00	0.93	4.77	0.05
2-2-Dimethylpentane	0.00	0.23	0.21	0.00
2,3-Dimethylpentane	0.00	0.65	2.52	0.02
2,4-Dimethylpentane	0.00	0.24	0.26	0.00
3,3-Dimethylpentane	0.00	0.09	0.20	0.00
2,3,3-Trimethylbutane	0.00	0.03	0.03	0.00
3-Ethylpentane	0.00	0.04	0.25	0.00
1,1-Dimethylcyclopentane	0.00	0.03	0.08	0.00
1,Cis-2-DimethylcyC5	0.00	0.05	0.68	0.02
1,Cis-3-DimethylcyC5	0.00	0.40	2.04	0.02
1-Trans-2-DimethcyC5	0.00	0.65	3.35	0.04
1-Trans-3-DimethcyC5	0.00	0.57	2.53	0.02
Ethylcyclopentane	0.00	0.07	1.79	0.09
Methylcyclohexane	0.00	1.03	17.81	0.61
Toluene (Methylbenzene)	0.00	0.13	7.60	0.96
N-Octane	0.00	0.02	4.36	4.35
I-Octane	0.00	0.09	11.37	4.13
Methyl-Ethylcyclopentane	0.00	0.04	4.47	1.62
Dimethylcyclohexane	0.00	0.00	0.63	2.27
P-Xylene	0.00	0.00	0.00	0.00
M-Xylene	0.00	0.00	0.00	0.00
O-Xylene	0.00	0.00	0.00	0.00
Ethylbenzene	0.00	0.00	0.00	0.00
N-Nonane	0.00	0.00	0.00	0.00
C9 isoparaffins	0.00	0.00	0.94	4.97

SPR CRUDE OIL COMPREHENSIVE ANALYSIS

Sample ID **MLI 005** **WEST HACKBERRY SOUR** **Date of Assay** **5/12/1998**

Crude							
Specific Gravity, 60/60° F	0.8575	Ni, ppm	7.74	RVP, psi @ 100° F			4.48
API Gravity	33.5	V, ppm	33.6	Acid number, mg KOH/g			0.11
Sulfur, Wt. %	1.41	Fe, ppm	0.325	Mercaptan Sulfur, ppm			26.2
Nitrogen, Wt. %	0.137	Cu, ppm	na	H_2S Sulfur, ppm			na
Micro Car. Res., Wt. %	4.11	Org. Cl, ppm	na	Viscosity: 77° F	8.278	cSt	
Pour Point, °F	-5	UOP "K"	11.86	100° F	5.632	cSt	

Fraction	Gas	1	2	3	4	5	6	Residuum	Residuum
Cut Temp.	C_2 - C_4	C5 - 175° F	175° - 250° F	250° - 375° F	375° - 530° F	530° - 650° F	650° - 1050° F	650° F+	1050° F+
Vol. %	1.4	6.2	7.0	16.4	15.8	10.2	29.1	43.1	14.0
Vol. Sum %	1.4	7.6	14.6	31.0	46.7	56.9	86.0	100.0	100.0
Wt. %	0.9	4.8	5.9	14.8	15.1	10.2	31.4	48.2	16.8
Wt. Sum %	0.9	5.7	11.7	26.4	41.5	51.7	83.1	99.9	99.9
Specific Gravity, 60/60° F		0.6654	0.7281	0.7717	0.8194	0.8610	0.9263	0.9583	1.025
API Gravity		81.2	62.8	51.9	41.2	32.8	21.3	16.2	6.6
Sulfur, Wt. %		0.0061	0.0119	0.0523	0.39	1.09	2.03	2.55	3.53
Molecular Weight		97	111	135	184	245	411		
Hydrogen, Wt. %		16.11	14.96	na				12.15	9.97
Mercaptan Sulfur, ppm		28.7	56.6	110.6	45.2				
H_2S Sulfur, ppm		4.8	9.2	7.9	0.5				
Organic Cl, ppm		41.9	16.0	3.7	1.0				
Research Octane Number		64.6	53.6	34.4					
Motor Octane Number		63.4	51.9	34.2					
Flash Point, ° F				77	170	246	302		
Aniline Point, ° F				124.3	144.9	159.1	180.8		
Acid Number, mg KOH/g					0.02	0.05			
Cetane Index					49.2	50.6			
Diesel Index				64.5	59.7	52.3			
Naphthalenes, Vol. %					3.83	10.82			
Smoke point, mm					20.2	14.8			
Nitrogen, Wt. %					0.0009	0.013	0.173	0.295	0.525
Viscosity, cSt 77° F					2.372				
100° F					1.900	4.934			
130° F						3.365	36.47	173.9	
180° F							14.07	46.73	12560
210° F									3128
250° F									340.4
Freezing Point, °F					-25.7				
Cloud Point, °F						24.1	99		
Pour Point, °F						20.7	95	47	
Ni, ppm								16.5	47.1
V, ppm								69.3	198
Fe, ppm								2.82	8.20
Cu, ppm								na	na
Micro Car. Res., Wt. %								8.50	23.44

Compositional Analysis, MLI 005 WEST HACKBERRY SOUR

	Gas IBP 59° F	1 59 - 175° F	2 175° - 250° F	3 250° - 375° F
Paraffins, Wt.%	99.90	87.18	66.75	44.59
Naphthenes, Wt.%	0.10	11.74	26.30	37.35
Aromatics, Wt.%	0.00	1.08	6.94	18.05
Benzene Precursor Index	0.03	8.47	3.48	0.01
Composition, Wt.%				
Ethane	0.22	-	-	-
Propane	13.03	0.00	0.00	0.00
N-Butane	56.08	1.24	0.00	0.00
I-Butane	12.98	0.06	0.00	0.00
N-Pentane	6.21	21.31	0.05	0.00
I-Pentane	10.78	11.90	0.01	0.00
Cyclopentane	0.10	2.21	0.03	0.00
N-Hexane	0.08	20.77	3.88	0.00
2-Methylpentane	0.14	12.60	0.73	0.00
3-Methylpentane	0.06	8.55	0.75	0.00
2,2-Dimethtylbutane	0.01	0.23	0.00	0.00
2,3-Dimethlybutane	0.02	1.69	0.07	0.00
Methylcyclopentane	0.02	6.14	1.76	0.00
Cyclohexane	0.00	2.90	2.83	0.00
Benzene	0.00	1.31	1.18	0.00
N-Heptane	0.00	1.78	19.29	0.19
2-Methylhexane	0.00	1.57	5.52	0.02
3-Methylhexane	0.00	1.38	6.17	0.03
2-2-Dimethylpentane	0.00	0.33	0.27	0.00
2,3-Dimethylpentane	0.00	0.96	3.26	0.01
2,4-Dimethylpentane	0.00	0.36	0.34	0.00
3,3-Dimethylpentane	0.00	0.13	0.26	0.00
2,3,3-Trimethylbutane	0.00	0.05	0.05	0.00
3-Ethylpentane	0.00	0.06	0.32	0.00
1,1-Dimethylcyclopentane	0.00	0.02	0.06	0.00
1,Cis-2-DimethylcyC5	0.00	0.04	0.50	0.01
1,Cis-3-DimethylcyC5	0.00	0.35	1.52	0.01
1-Trans-2-DimethcyC5	0.00	0.56	2.51	0.01
1-Trans-3-DimethcyC5	0.00	0.49	1.89	0.01
Ethylcyclopentane	0.00	0.06	1.34	0.03
Methylcyclohexane	0.00	0.59	8.87	0.12
Toluene (Methylbenzene)	0.00	0.12	5.73	0.29
N-Octane	0.00	0.04	6.69	2.69
I-Octane	0.00	0.14	14.47	2.12
Methyl-Ethylcyclopentane	0.00	0.06	6.12	0.90
Dimethylcyclohexane	0.00	0.00	0.67	0.98
P-Xylene	0.00	0.00	0.39	0.91
M-Xylene	0.00	0.00	0.00	0.00
O-Xylene	0.00	0.00	0.00	0.00
Ethylbenzene	0.00	0.00	0.42	0.73
N-Nonane	0.00	0.00	0.00	0.00
C9 isoparaffins	0.00	0.01	1.90	4.05

SPR CRUDE OIL COMPREHENSIVE ANALYSIS

Sample ID **MLI 007** **BAYOU CHOCTAW SWEET** **Date of Assay** **4/30/1998**

Crude							
Specific Gravity, 60/60° F	0.8447	Ni, ppm	3.50	RVP, psi @ 100° F			4.62
API Gravity	36.0	V, ppm	5.49	Acid number, mg KOH/g			0.084
Sulfur, Wt. %	0.36	Fe, ppm	0.844	Mercaptan Sulfur, ppm			7.021
Nitrogen, Wt. %	0.114	Cu, ppm	na	H_2S Sulfur, ppm			na
Micro Car. Res., Wt. %	2.22	Org. Cl, ppm	0.2	Viscosity: 77° F	6.874	cSt	
Pour Point, °F	31	UOP "K"	11.94	100° F	4.623	cSt	

Fraction	Gas	1	2	3	4	5	6	Residuum	Residuum
Cut Temp.	C_2 - C_4	C5 - 175° F	175° - 250° F	250° - 375° F	375° - 530° F	530° - 650° F	650° - 1050° F	650° F+	1050° F+
Vol. %	1.7	7.3	8.1	14.2	16.3	10.0	31.8	42.4	10.7
Vol. Sum %	1.7	9.0	17.1	31.3	47.6	57.6	89.3	100.0	100.0
Wt. %	1.2	5.8	7.1	13.1	15.9	10.1	34.3	47.0	12.7
Wt. Sum %	1.2	7.0	14.1	27.1	43.0	53.1	87.4	100.0	100.0
Specific Gravity, 60/60° F		0.6730	0.7396	0.7763	0.8240	0.8526	0.9116	0.9349	1.004
API Gravity		78.8	59.8	50.8	40.2	34.5	23.7	19.9	9.4
Sulfur, Wt. %		0.0043	0.0040	0.0123	0.07	0.21	0.57	0.69	1.04
Molecular Weight		97	111	136	184	246	425		
Hydrogen, Wt. %		15.89	14.65	na				12.99	10.61
Mercaptan Sulfur, ppm		14.6	10.1	22.5	17.4				
H_2S Sulfur, ppm		0.03	0.8	0.7	0.02				
Organic Cl, ppm		2.1	0.5	0.5	0.6				
Research Octane Number		68.4	61.1	42.3					
Motor Octane Number		66.5	58.6	40.0					
Flash Point, ° F				77	171	246	303		
Aniline Point, ° F				122.4	144.1	164.3	193.3		
Acid Number, mg KOH/g					0.03	0.10			
Cetane Index					47.1	53.2			
Diesel Index				62.2	58.0	56.6			
Naphthalenes, Vol. %					4.42	8.20			
Smoke point, mm					20.3	16.8			
Nitrogen, Wt. %					0.0015	0.006	0.108	0.240	0.603
Viscosity, cSt 77° F					2.473				
100° F					1.951	4.795			
130° F						3.312	37.03	95.3	
180° F							14.22	28.28	5671
210° F									1722
250° F									249.3
Freezing Point, °F					-28.54				
Cloud Point, °F						24.0	106		
Pour Point, °F						19.9	102	75	
Ni, ppm								7.539	26.2
V, ppm								11.81	41.0
Fe, ppm								3.856	13.87
Cu, ppm								na	na
Micro Car. Res., Wt. %								5.07	18.17

Compositional Analysis, MLI 007 BAYOU CHOCTAW SWEET

	Gas IBP 59° F	1 59 - 175° F	2 175° - 250° F	3 250° - 375° F
Paraffins, Wt.%	99.86	79.54	53.27	21.05
Naphthenes, Wt.%	0.14	18.79	38.53	45.28
Aromatics, Wt.%	0.00	1.67	8.19	33.67
Benzene Precursor Index	0.03	11.04	5.71	0.02
Composition, Wt.%				
Ethane	0.00	-	-	-
Propane	9.25	0.00	0.00	0.00
N-Butane	61.31	1.45	0.00	0.00
I-Butane	12.86	0.06	0.00	0.00
N-Pentane	5.60	20.62	0.04	0.00
I-Pentane	10.56	12.51	0.01	0.00
Cyclopentane	0.14	3.20	0.04	0.00
N-Hexane	0.06	16.63	3.12	0.01
2-Methylpentane	0.12	11.68	0.68	0.00
3-Methylpentane	0.05	7.18	0.64	0.00
2,2-Dimethtylbutane	0.00	0.00	0.00	0.00
2,3-Dimethlybutane	0.02	1.26	0.05	0.00
Methylcyclopentane	0.02	9.49	2.73	0.01
Cyclohexane	0.01	5.43	5.33	0.02
Benzene	0.00	2.05	1.85	0.01
N-Heptane	0.00	1.26	13.74	0.28
2-Methylhexane	0.00	1.21	4.27	0.03
3-Methylhexane	0.00	1.06	4.77	0.04
2-2-Dimethylpentane	0.00	0.26	0.21	0.00
2,3-Dimethylpentane	0.00	0.74	2.52	0.02
2,4-Dimethylpentane	0.00	0.28	0.27	0.00
3,3-Dimethylpentane	0.00	0.10	0.20	0.00
2,3,3-Trimethylbutane	0.00	0.03	0.03	0.00
3-Ethylpentane	0.00	0.04	0.25	0.00
1,1-Dimethylcyclopentane	0.00	0.03	0.07	0.00
1,Cis-2-DimethylcyC5	0.00	0.05	0.66	0.02
1,Cis-3-DimethylcyC5	0.00	0.45	2.00	0.02
1-Trans-2-DimethcyC5	0.00	0.73	3.29	0.03
1-Trans-3-DimethcyC5	0.00	0.64	2.48	0.02
Ethylcyclopentane	0.00	0.08	1.75	0.07
Methylcyclohexane	0.00	1.12	16.94	0.47
Toluene (Methylbenzene)	0.00	0.14	6.69	0.68
N-Octane	0.00	0.03	4.93	3.98
I-Octane	0.00	0.12	12.51	3.68
Methyl-Ethylcyclopentane	0.00	0.04	4.17	1.23
Dimethylcyclohexane	0.00	0.00	0.76	2.24
P-Xylene	0.00	0.00	0.26	1.22
M-Xylene	0.00	0.00	0.38	1.95
O-Xylene	0.00	0.00	0.04	0.42
Ethylbenzene	0.00	0.00	0.36	1.23
N-Nonane	0.00	0.00	0.05	1.17
C9 isoparaffins	0.00	0.01	1.82	7.83
Isobutylcyclopentane	0.00	0.00	0.03	0.14

SPR CRUDE OIL COMPREHENSIVE ANALYSIS

Sample ID **MLI 008** **BAYOU CHOCTAW SOUR** **Date of Assay** **5/1/1998**

Crude							
Specific Gravity, 60/60° F	0.8645	Ni, ppm	11.1	RVP, psi @ 100° F			3.6
API Gravity	32.2	V, ppm	40.3	Acid number, mg KOH/g			0.13
Sulfur, Wt. %	1.43	Fe, ppm	2.44	Mercaptan Sulfur, ppm			16.4
Nitrogen, Wt. %	0.140	Cu, ppm	na	H_2S Sulfur, ppm			na
Micro Car. Res., Wt. %	3.96	Org. Cl, ppm	na	Viscosity: 77° F	10.15	cSt	
Pour Point, °F	11	UOP "K"	11.85	100° F	6.539	cSt	

Fraction	Gas	1	2	3	4	5	6	Residuum	Residuum
Cut Temp.	C_2 - C_4	C5 - 175° F	175° - 250° F	250° - 375° F	375° - 530° F	530° - 650° F	650° - 1050° F	650° F+	1050° F+
Vol. %	1.8	6.9	6.6	14.5	16.0	10.2	30.0	44.1	14.1
Vol. Sum %	1.8	8.8	15.3	29.8	45.8	56.0	85.9	100.0	100.0
Wt. %	1.2	5.3	5.5	13.0	15.2	10.2	32.4	49.1	16.8
Wt. Sum %	1.2	6.5	12.1	25.0	40.3	50.5	82.8	99.6	99.6
Specific Gravity, 60/60° F		0.6644	0.7290	0.7754	0.8235	0.8659	0.9324	0.9637	1.030
API Gravity		81.5	62.6	51.0	40.3	31.9	20.3	15.3	5.8
Sulfur, Wt. %		0.0061	0.0117	0.0442	0.40	1.15	1.98	2.51	3.54
Molecular Weight		97	111	138	184	243	411		
Hydrogen, Wt. %		16.11	14.88	na				11.96	9.79
Mercaptan Sulfur, ppm		42.7	58.4	58.8	20.3				
H_2S Sulfur, ppm		3.6	3.3	2.0	< 0.1				
Organic Cl, ppm		8.0	4.2	4.9	2.6				
Research Octane Number		66.0	55.1	33.7					
Motor Octane Number		64.7	53.3	31.8					
Flash Point, ° F				82	172	246	303		
Aniline Point, ° F				125.8	142.8	156.5	179.6		
Acid Number, mg KOH/g					0.03	0.06			
Cetane Index					47.8	49.1			
Diesel Index				64.1	57.6	50.0			
Naphthalenes, Vol. %					4.19	10.67			
Smoke point, mm					18.6	13.8			
Nitrogen, Wt. %					0.0017	0.015	0.174	0.303	0.552
Viscosity, cSt 77° F					2.470				
100° F					1.964	5.218			
130° F						3.521	45.49	236.7	
180° F							16.62	57.59	20120
210° F									4446
250° F									407.8
Freezing Point, °F					-32.4				
Cloud Point, °F						24.5	100		
Pour Point, °F						22.0	96	61	
Ni, ppm								21.8	61.9
V, ppm								78.8	225
Fe, ppm								7.0	20.6
Cu, ppm								na	na
Micro Car. Res., Wt. %								8.33	23.79

Compositional Analysis, MLI 008 BAYOU CHOCTAW SOUR

	Gas IBP 59° F	1 59 - 175° F	2 175° - 250° F	3 250° - 375° F
Paraffins, Wt.%	99.91	87.05	65.63	43.80
Naphthenes, Wt.%	0.09	11.78	26.43	33.83
Aromatics, Wt.%	0.00	1.17	7.94	22.37
Benzene Precursor Index	0.03	8.44	4.10	0.01
Composition, Wt.%				
Ethane	0.35	-	-	-
Propane	15.05	0.00	0.00	0.00
N-Butane	55.20	1.46	0.00	0.00
I-Butane	13.58	0.08	0.00	0.00
N-Pentane	5.31	21.86	0.06	0.00
I-Pentane	9.89	13.11	0.01	0.00
Cyclopentane	0.10	2.44	0.04	0.00
N-Hexane	0.06	19.33	4.26	0.01
2-Methylpentane	0.12	12.85	0.88	0.00
3-Methylpentane	0.05	8.55	0.89	0.00
2,2-Dimethtylbutane	0.00	0.09	0.00	0.00
2,3-Dimethlybutane	0.02	1.84	0.09	0.00
Methylcyclopentane	0.01	6.41	2.17	0.00
Cyclohexane	0.00	2.77	3.19	0.01
Benzene	0.00	1.43	1.52	0.00
N-Heptane	0.00	1.43	18.38	0.30
2-Methylhexane	0.00	1.37	5.69	0.03
3-Methylhexane	0.00	1.20	6.35	0.05
2-2-Dimethylpentane	0.00	0.29	0.27	0.00
2,3-Dimethylpentane	0.00	0.84	3.36	0.02
2,4-Dimethylpentane	0.00	0.32	0.35	0.00
3,3-Dimethylpentane	0.00	0.11	0.27	0.00
2,3,3-Trimethylbutane	0.00	0.04	0.05	0.00
3-Ethylpentane	0.00	0.05	0.33	0.00
1,1-Dimethylcyclopentane	0.00	0.02	0.05	0.00
1,Cis-2-DimethylcyC5	0.00	0.03	0.49	0.01
1,Cis-3-DimethylcyC5	0.00	0.28	1.47	0.01
1-Trans-2-DimethcyC5	0.00	0.46	2.42	0.02
1-Trans-3-DimethcyC5	0.00	0.40	1.82	0.01
Ethylcyclopentane	0.00	0.05	1.29	0.04
Methylcyclohexane	0.00	0.59	10.45	0.23
Toluene (Methylbenzene)	0.00	0.11	6.64	0.55
N-Octane	0.00	0.03	5.88	3.84
I-Octane	0.00	0.11	13.77	3.27
Methyl-Ethylcyclopentane	0.00	0.03	3.97	0.94
Dimethylcyclohexane	0.00	0.00	0.69	1.62
P-Xylene	0.00	0.00	0.35	1.34
M-Xylene	0.00	0.00	0.35	1.46
O-Xylene	0.00	0.00	0.00	0.00
Ethylbenzene	0.00	0.00	0.41	1.15
N-Nonane	0.00	0.00	0.04	0.76
C9 isoparaffins	0.00	0.01	1.69	5.88

SPR CRUDE OIL COMPREHENSIVE ANALYSIS

Sample ID **MLI 009** **BIG HILL SWEET** **Date of Assay** **5/4/1998**

Crude							
Specific Gravity, 60/60° F	0.8451	Ni, ppm	12.1	RVP, psi @ 100° F			5.22
API Gravity	35.9	V, ppm	16.3	Acid number, mg KOH/g			0.22
Sulfur, Wt. %	0.48	Fe, ppm	4.24	Mercaptan Sulfur, ppm			10.1
Nitrogen, Wt. %	0.196	Cu, ppm	na	H_2S Sulfur, ppm			na
Micro Car. Res., Wt. %	2.49	Org. Cl, ppm	0.9	Viscosity: 77° F	5.871	cSt	
Pour Point, °F	15	UOP "K"	11.88	100° F	4.177	cSt	

Fraction	Gas	1	2	3	4	5	6	Residuum	Residuum
Cut Temp.	C_2 - C_4	C5 - 175° F	175° - 250° F	250° - 375° F	375° - 530° F	530° - 650° F	650° - 1050° F	650° F+	1050° F+
Vol. %	2.7	8.2	9.8	15.4	15.5	10.8	27.8	37.6	9.8
Vol. Sum %	2.7	10.9	20.7	36.1	51.5	62.4	90.2	100.0	100.0
Wt. %	1.8	6.6	8.6	14.3	15.2	11.1	30.3	42.2	11.8
Wt. Sum %	1.8	8.4	17.0	31.3	46.5	57.5	87.9	99.7	99.7
Specific Gravity, 60/60° F		0.6764	0.7450	0.7815	0.8305	0.8623	0.9226	0.9477	1.019
API Gravity		77.7	58.4	49.6	38.9	32.6	21.9	17.8	7.4
Sulfur, Wt. %		0.0020	0.0033	0.0201	0.14	0.39	0.80	0.98	1.44
Molecular Weight		96	111	133	183	245	407		
Hydrogen, Wt. %		15.77	14.51	na				12.53	10.14
Mercaptan Sulfur, ppm		6.2	20.2	27.1	22.1				
H_2S Sulfur, ppm		< 0.1	< 0.1	< 0.1	< 0.1				
Organic Cl, ppm		7.3	1.0	< 0.1	< 0.1				
Research Octane Number		70.0	64.7	50.4					
Motor Octane Number		67.6	61.8	48.4					
Flash Point, ° F				77	170	246	301		
Aniline Point, ° F				122.8	144.0	162.2	186.0		
Acid Number, mg KOH/g					0.08	0.24			
Cetane Index					44.6	50.3			
Diesel Index				60.9	56.0	52.9			
Naphthalenes, Vol. %					4.60	9.61			
Smoke point, mm					18.1	15.0			
Nitrogen, Wt. %					0.0059	0.034	0.307	0.505	1.012
Viscosity, cSt 77° F					2.65				
100° F					2.093	5.416			
130° F						3.646	52.62	170.8	
180° F							18.59	44.00	25410
210° F									5419
250° F									472.6
Freezing Point, °F					-26.0				
Cloud Point, °F						23.5	105		
Pour Point, °F						22.3	101	92	
Ni, ppm								30.7	107
V, ppm								38.9	134
Fe, ppm								14.8	49.5
Cu, ppm								na	na
Micro Car. Res., Wt. %								5.88	20.84

Compositional Analysis, MLI 009 BIG HILL SWEET

	Gas IBP 59° F	1 59 - 175° F	2 175° - 250° F	3 250° - 375° F
Paraffins, Wt.%	99.88	75.51	47.87	23.31
Naphthenes, Wt.%	0.12	22.42	43.14	52.65
Aromatics, Wt.%	0.00	2.07	8.99	24.04
Benzene Precursor Index	0.02	11.84	5.65	0.02
Composition, Wt.%				
Ethane	0.28	-	-	-
Propane	18.90	0.00	0.00	0.00
N-Butane	56.25	1.82	0.00	0.00
I-Butane	12.30	0.08	0.00	0.00
N-Pentane	4.16	20.94	0.04	0.00
I-Pentane	7.71	12.47	0.01	0.00
Cyclopentane	0.12	3.82	0.05	0.00
N-Hexane	0.04	15.21	2.72	0.01
2-Methylpentane	0.08	11.01	0.61	0.00
3-Methylpentane	0.02	4.48	0.38	0.00
2,2-Dimethtylbutane	0.00	0.16	0.00	0.00
2,3-Dimethlybutane	0.01	1.09	0.04	0.00
Methylcyclopentane	0.02	12.03	3.31	0.01
Cyclohexane	0.00	5.27	4.93	0.02
Benzene	0.00	2.55	2.19	0.01
N-Heptane	0.00	1.16	12.05	0.30
2-Methylhexane	0.00	1.14	3.83	0.03
3-Methylhexane	0.00	1.00	4.28	0.05
2-2-Dimethylpentane	0.00	0.24	0.18	0.00
2,3-Dimethylpentane	0.00	0.70	2.26	0.02
2,4-Dimethylpentane	0.00	0.26	0.24	0.00
3,3-Dimethylpentane	0.00	0.09	0.18	0.00
2,3,3-Trimethylbutane	0.00	0.03	0.03	0.00
3-Ethylpentane	0.00	0.04	0.22	0.00
1,1-Dimethylcyclopentane	0.00	0.04	0.10	0.00
1,Cis-2-DimethylcyC5	0.00	0.08	0.92	0.03
1,Cis-3-DimethylcyC5	0.00	0.66	2.78	0.03
1-Trans-2-DimethcyC5	0.00	1.06	4.58	0.05
1-Trans-3-DimethcyC5	0.00	0.93	3.45	0.03
Ethylcyclopentane	0.00	0.12	2.44	0.12
Methylcyclohexane	0.00	1.11	16.07	0.55
Toluene (Methylbenzene)	0.00	0.16	7.47	0.94
N-Octane	0.00	0.02	3.60	3.59
I-Octane	0.00	0.13	12.94	4.70
Methyl-Ethylcyclopentane	0.00	0.06	6.43	2.34
Dimethylcyclohexane	0.00	0.00	0.50	1.83
P-Xylene	0.00	0.00	0.00	0.00
M-Xylene	0.00	0.00	0.00	0.00
O-Xylene	0.00	0.00	0.00	0.00
Ethylbenzene	0.00	0.00	0.00	0.00
N-Nonane	0.00	0.00	0.00	0.00
C9 isoparaffins	0.00	0.00	0.95	5.07

SPR CRUDE OIL COMPREHENSIVE ANALYSIS

Sample ID **MLI 010** **BIG HILL SOUR** Date of Assay **6/11/1998**

Crude							
Specific Gravity, 60/60° F	0.8746	Ni, ppm	13.2	RVP, psi @ 100° F			3.85
API Gravity	30.3	V, ppm	43.2	Acid number, mg KOH/g			0.31
Sulfur, Wt. %	1.38	Fe, ppm	1.65	Mercaptan Sulfur, ppm			16.4
Nitrogen, Wt. %	0.147	Cu, ppm	na	H_2S Sulfur, ppm			na
Micro Car. Res., Wt. %	4.62	Org. Cl, ppm	0.5	Viscosity: 77° F	13.35	cSt	
Pour Point, °F	13	UOP "K"	11.84	100° F	8.925	cSt	

Fraction	Gas	1	2	3	4	5	6	Residuum	Residuum
Cut Temp.	C_2 - C_4	C5 - 175° F	175° - 250° F	250° - 375° F	375° - 530° F	530° - 650° F	650° - 1050° F	650° F+	1050° F+
Vol. %	1.8	6.3	6.2	12.4	13.8	11.3	33.5	48.4	14.9
Vol. Sum %	1.8	8.0	14.2	26.6	40.3	51.6	85.1	100.0	100.0
Wt. %	1.2	4.8	5.2	11.1	13.0	11.2	35.8	53.4	17.7
Wt. Sum %	1.2	5.9	11.1	22.2	35.2	46.4	82.2	99.8	99.8
Specific Gravity, 60/60° F		0.6675	0.7357	0.7860	0.8262	0.8660	0.9345	0.9658	1.036
API Gravity		80.5	60.8	48.5	39.8	31.9	19.9	15.0	5.1
Sulfur, Wt. %		0.0047	0.0100	0.0692	0.39	0.97	1.81	2.26	3.16
Molecular Weight		97	111	138	184	245	407		
Hydrogen, Wt. %		16.00	14.60	na				11.88	9.61
Mercaptan Sulfur, ppm		27.3	34.5	48.9	18.3				
H_2S Sulfur, ppm		4.0	18.0	41.2	< 0.1				
Organic Cl, ppm		1.7	0.9	0.9	2.7				
Research Octane Number		66.9	57.9	44.7					
Motor Octane Number		65.4	55.7	41.2					
Flash Point, ° F				85	170	247	302		
Aniline Point, ° F				126.3	141.7	154.1	178.0		
Acid Number, mg KOH/g					0.05	0.09			
Cetane Index					46.7	49.0			
Diesel Index				61.3	56.4	49.2			
Naphthalenes, Vol. %					3.92	10.36			
Smoke point, mm					18.8	13.9			
Nitrogen, Wt. %					0.0010	0.013	0.173	0.307	0.579
Viscosity, cSt 77° F					2.348				
100° F					1.868	4.785			
130° F						3.278	48.69	251.9	
180° F							17.67	62.12	255800
210° F									11380
250° F									240.9
Freezing Point, °F					-28.7				
Cloud Point, °F						20.1	94		
Pour Point, °F						16.5	90	45	
Ni, ppm								23.8	73.3
V, ppm								79.3	238
Fe, ppm								4.87	12.2
Cu, ppm								na	na
Micro Car. Res., Wt. %								8.50	24.35

Compositional Analysis, MLI 010 BIG HILL SOUR

	Gas IBP 59° F	1 59 - 175° F	2 175° - 250° F	3 250° - 375° F
Paraffins, Wt.%	99.91	84.89	60.25	19.32
Naphthenes, Wt.%	0.09	13.29	29.08	31.27
Aromatics, Wt.%	0.00	1.82	10.67	49.41
Benzene Precursor Index	0.03	9.15	4.60	0.01
Composition, Wt.%				
Ethane	0.93	-	-	-
Propane	18.20	0.00	0.00	0.00
N-Butane	53.18	1.50	0.00	0.00
I-Butane	13.25	0.08	0.00	0.00
N-Pentane	4.89	21.50	0.05	0.00
I-Pentane	8.91	12.61	0.01	0.00
Cyclopentane	0.10	2.70	0.04	0.00
N-Hexane	0.06	18.57	3.89	0.01
2-Methylpentane	0.11	12.32	0.81	0.00
3-Methylpentane	0.05	8.18	0.81	0.00
2,2-Dimethtylbutane	0.02	0.43	0.01	0.00
2,3-Dimethlybutane	0.02	1.63	0.08	0.00
Methylcyclopentane	0.02	7.16	2.31	0.00
Cyclohexane	0.00	3.10	3.40	0.01
Benzene	0.00	2.24	2.26	0.01
N-Heptane	0.00	1.40	17.08	0.41
2-Methylhexane	0.00	1.33	5.25	0.04
3-Methylhexane	0.00	1.17	5.87	0.06
2-2-Dimethylpentane	0.00	0.28	0.25	0.00
2,3-Dimethylpentane	0.00	0.82	3.10	0.03
2,4-Dimethylpentane	0.00	0.31	0.33	0.00
3,3-Dimethylpentane	0.00	0.11	0.25	0.00
2,3,3-Trimethylbutane	0.00	0.04	0.04	0.00
3-Ethylpentane	0.00	0.05	0.30	0.00
1,1-Dimethylcyclopentane	0.00	0.02	0.06	0.00
1,Cis-2-DimethylcyC5	0.00	0.04	0.53	0.01
1,Cis-3-DimethylcyC5	0.00	0.32	1.60	0.02
1-Trans-2-DimethcyC5	0.00	0.52	2.63	0.03
1-Trans-3-DimethcyC5	0.00	0.46	1.98	0.02
Ethylcyclopentane	0.00	0.06	1.40	0.06
Methylcyclohexane	0.00	0.71	11.98	0.39
Toluene (Methylbenzene)	0.00	0.16	8.84	1.07
N-Octane	0.00	0.03	5.52	5.27
I-Octane	0.00	0.10	11.70	4.07
Methyl-Ethylcyclopentane	0.00	0.03	4.10	1.43
Dimethylcyclohexane	0.00	0.00	0.43	1.48
P-Xylene	0.00	0.00	0.29	1.60
M-Xylene	0.00	0.00	0.53	3.23
O-Xylene	0.00	0.00	0.16	2.05
Ethylbenzene	0.00	0.00	0.51	2.07
N-Nonane	0.00	0.00	0.13	3.95
C9 isoparaffins	0.00	0.01	1.36	6.93
Isobutylcyclopentane	0.00	0.00	0.07	0.47
Isopropylcyclohexane	0.00	0.00	0.00	0.06
C9 Aromatics	0.00	0.00	0.00	0.13

EXHIBIT E - SPR DELIVERY POINT DATA

SEAWAY FREEPORT TERMINAL
(Formerly Phillips Terminal)

LOCATION: Brazoria County, Texas (three miles southwest of Freeport, Texas on the Old Brazos River, four miles from the sea buoy)

CRUDE OIL STREAMS: Bryan Mound Sweet, Bryan Mound Sour, and Bryan Mound Maya

DELIVERY POINTS: Seaway Terminal marine dock facility number 2

MARINE DOCK FACILITIES AND VESSEL RESTRICTIONS:

TANKSHIP DOCKS: 3 Docks: Nos. 1, 2 and 3

MAXIMUM LENGTH OVERALL (LOA): Dock 1 - 750 feet during daylight and 615 feet during hours of darkness. Docks 2 and 3 - 820 feet during daylight and 615 feet during hours of darkness

MAXIMUM BEAM: Dock 1 - 107 feet
Docks 2 and 3 - 145 feet

MAXIMUM DRAFT: Dock 1 - 36.5 feet salt water; Docks 2 and 3 - 42 feet salt water; subject to change due to weather and silting conditions

MAXIMUM AIR DRAFT: None

MAXIMUM DEADWEIGHT TONS (DWT): Maximum DWT at Dock No. 1 is 50,000 DWT. Dock Nos. 2 and 3 can accommodate up to 120,000 DWT if they meet other port restrictions. Maximum DWT is theoretical berth handling capability; however, purchasers are cautioned that varying harbor and channel physical constraints are the controlling factors as to vessel size, and they are responsible for confirming that proposed vessels can be accommodated.

BARGE LOADING CAPABILITY: Dock No. 1 has the capability to load barges of a minimum 30,000-barrel capacity. Its use, however, is contingent upon the consent of the Government and non-interference with the Government's obligations to other parties.

OILY WASTE RECEPTION FACILITIES: Facilities are available for oily bilge water and sludge wastes. Purchasers are responsible for making arrangements with the terminal and for bearing costs associated with such arrangements.

CUSTOMARY ANCHORAGE: Freeport Harbor sea buoy approximately 4.5 miles from the terminal.

SEAWAY TEXAS CITY TERMINAL
(Formerly ARCO Texas City)

LOCATION: Docks 11 and 12, Texas City Harbor, Galveston County, Texas

CRUDE OIL STREAMS: Bryan Mound Sweet, Bryan Mound Sour, and Bryan Mound Maya

DELIVERY POINTS: Marine Docks (11 and 12) and connections to local commercial pipelines

MARINE DOCK FACILITIES AND VESSEL RESTRICTIONS:

TANKSHIP DOCKS: 2 Docks: Nos. 11 and 12

MAXIMUM LENGTH OVERALL (LOA): 1,020 feet. Maximum bow to manifold centerline distance is 468 feet.

MAXIMUM BEAM: Dock 11 - 180 feet; Dock 12 - 220 feet

MAXIMUM DRAFT: 39.5 feet brackish water; subject to change due to weather and silting conditions

MAXIMUM AIR DRAFT: None

MAXIMUM DEADWEIGHT TONS (DWT): 150,000 DWT each. Terminal permission is required for less than 30,000 DWT or greater than 150,000 DWT. Vessels larger than 120,000 DWT are restricted to daylight transit. Purchasers are cautioned that varying harbor and channel physical constraints are the controlling factors as to vessel size, and they are responsible for confirming that proposed vessels can be accommodated.

BARGE LOADING CAPABILITY: None

OILY WASTE RECEPTION FACILITIES: Facilities are available for oily bilge water and sludge wastes. Purchasers are responsible for making arrangements with the terminal and for bearing all costs associated with such arrangements.

CUSTOMARY ANCHORAGE: Bolivar Roads (breakwater) or Galveston sea buoy.

SUN PIPE LINE COMPANY, NEDERLAND TERMINAL

LOCATION: Nederland, Texas (on the Neches River at Smiths Bluff in southwest Texas, 47.6 nautical miles from the bar)

CRUDE OIL STREAMS: West Hackberry Sweet, West Hackberry Sour

DELIVERY POINTS: Sun Terminal marine dock facility and Sun Terminal connections to local commercial pipelines

MARINE DOCK FACILITIES AND VESSEL RESTRICTIONS:

TANKSHIP DOCKS: 5 Docks: Nos. 1, 2, 3, 4 and 5

MAXIMUM LENGTH OVERALL (LOA): 1000 feet

MAXIMUM BEAM: 150 feet

MAXIMUM DRAFT: 40 feet fresh water

MAXIMUM AIR DRAFT: 136 feet

MAXIMUM DEADWEIGHT TONS (DWT): Maximum DWT at Dock No. 1 is 85,000 DWT. Dock Nos. 2, 3, 4 and 5 can accommodate up to 150,000 DWT. Vessels larger than 85,000 DWT, 875 feet LOA, or 125 feet beam are restricted to daylight transit. Maximum DWT is theoretical berth handling capability; however, purchasers are cautioned that varying harbor and channel physical constraints are the controlling factors as to vessel size, and they are responsible for confirming that proposed vessels can be accommodated.

BARGE LOADING CAPABILITY: 3 Barge Docks: A, B and C. Each is capable of handling barges up to 25,000 barrels capacity.

OILY WASTE RECEPTION FACILITIES: Facilities are available for oily bilge water and sludge wastes. Purchasers are responsible for making arrangements with the terminal and for bearing costs associated with such arrangements.

CUSTOMARY ANCHORAGE: South of Sabine Bar Bouy. There is an additional anchorage at the Sabine Bar for vessels with draft of 39 feet of less.

TEXACO 22-INCH/DOE LAKE CHARLES PIPELINE CONNECTION

LOCATION: Lake Charles Upper Junction, located in Section 36, Township 10 South, Range 10 West, Calcasieu Parish, (Lake Charles) Louisiana

CRUDE OIL STREAMS: West Hackberry Sweet, West Hackberry Sour

DELIVERY POINT: Texaco 22-Inch/DOE Lake Charles Pipeline Connection

MARINE DISTRIBUTION FACILITIES: None

EQUILON SUGARLAND TERMINAL

LOCATION: St. James Parish, Louisiana (30 miles southwest of Baton Rouge on the west bank of the Mississippi River at mile-marker 158.3)

CRUDE OIL STREAMS: Bayou Choctaw Sweet, Bayou Choctaw Sour

DELIVERY POINTS: Sugarland Terminal marine dock facility and LOCAP and Capline Terminals (connections to Capline interstate pipeline system and local commercial pipelines)

MARINE DOCK FACILITIES AND VESSEL RESTRICTIONS:

TANKSHIP DOCKS: 2 Docks: Nos. 1 and 2

MAXIMUM LENGTH OVERALL (LOA): 940 feet

MAXIMUM BEAM: None

MAXIMUM DRAFT: 45 feet fresh water

MAXIMUM AIR DRAFT: 153 feet less the river stage

MAXIMUM DEADWEIGHT TONS (DWT): 100,000 DWT. Maximum DWT is theoretical berth handling capability; however, purchasers are cautioned that varying harbor and channel physical constraints are the controlling factors as to vessel size, and they are responsible for confirming that proposed vessels can be accommodated.

BARGE LOADING CAPABILIITY: None

OILY WASTE RECEPTION FACILITIES: Facilities are available for oily bilge water and sludge wastes. Purchasers are responsible for making arrangements and for bearing all costs associated with such arrangements. Terminal can provide suitable contacts.

CUSTOMARY ANCHORAGE: Grandview Reach approximately 11 miles from the terminal.

UNOCAL BEAUMONT TERMINAL

LOCATION: Beaumont Terminal, located downstream south bank of the Neches River, approximately 8 miles SE of Beaumont, Texas

CRUDE OIL STREAMS: Big Hill Sweet, Big Hill Sour

DELIVERY POINTS: Unocal Beaumont Terminal No. 2 Crude Dock and connections to local commercial pipelines

MARINE DOCK FACILITIES AND VESSEL RESTRICTIONS:

TANKSHIP DOCKS: 1 Dock (No. 2)

MAXIMUM LENGTH OVERALL (LOA): 1,020 feet

MAXIMUM BEAM: 150 feet

MAXIMUM DRAFT: 40 feet fresh water

MAXIMUM AIR DRAFT: 136 feet

MAXIMUM DEADWEIGHT TONS (DWT): Maximum DWT at Dock No. 2 is 150,000 DWT. Vessels larger than 85,000 DWT, 875 feet LOA, or 125 feet beam are restricted to daylight transit. Maximum DWT is theoretical berth handling capability; however, purchasers are cautioned that varying harbor and channel physical constraints are the controlling factors as to vessel size and they are responsible for confirming that proposed vessels can be accommodated.

BARGE LOADING CAPABILITY: None

OILY WASTE RECEPTION FACILITIES: Facilities are available for oily bilge water and sludge wastes. Purchasers are responsible for making arangements with the terminal and for bearing costs associated with such arrangements.

VAPOR RECOVERY: Dock No. 2 is equipped with a crude oil vapor control system. All vessels loading crude must be outfitted with vapor control equipment. No vessel will be allowed to load without this equipment onboard.

CUSTOMARY ANCHORAGE: South of Sabine Bar Buoy. There is an additional anchorage at the Sabine Bar for vessels with draft of 39 feet or less.

TEXACO 20-INCH PIPELINE (TPLI) METER STATION

LOCATION: Jefferson County, Texas , Seven miles west and one mile north of FM 365 and Old West Port Arthur Road.

CRUDE OIL STREAMS: Big Hill Sweet, Big Hill Sour

DELIVERY POINT: TPLI East Houston Terminal, Exxon Junction (Channelview), Oil Tanking Junction

MARINE DISTRIBUTION FACILITIES: None

EXHIBIT F

SAMPLE - OFFER STANDBY LETTER OF CREDIT

BANK LETTERHEAD

IRREVOCABLE STANDBY LETTER OF CREDIT

DATE:_____

Acquisition and Sales Division
Mail Stop FE-4451
Project Management Office
Strategic Petroleum Reserve
U.S. Department of Energy
900 Commerce Road East
New Orleans, LA 70123

To the Strategic Petroleum Reserve Sales Contracting Officer:

By order of our customer _____ we hereby establish in the U.S. Department of Energy's favor, an irrevocable standby Letter of Credit, Numbered _____, for an amount not to exceed U.S. $_____(_____) effective immediately on account of our customer in response to the U.S. Department of Energy's Notice of Sale No._____, including any amendments thereto, for the sale of Strategic Petroleum Reserve petroleum. This Letter of Credit expires 60 days from the date of issuance of this Letter of Credit.

This Letter of Credit is available by wire payment to the U.S. Department of Energy against presentation of a demand on us of a manually signed statement (with blanks filled in) containing the following:

"THIS DRAWING OF U.S. $_____ (_____) AGAINST YOUR LETTER OF CREDIT NUMBERED _____, DATED _____, IS DUE THE U.S. GOVERNMENT BECAUSE OF THE FAILURE OF _____ TO HONOR ITS OFFER TO ENTER INTO A CONTRACT FOR THE PURCHASE OF PETROLEUM FROM THE STRATEGIC PETROLEUM RESERVE, IN ACCORDANCE WITH THE U.S. GOVERNMENT'S NOTICE OF SALE NO. _____, INCLUDING ANY AMENDMENTS THERETO."

Upon receipt of the U.S. Department of Energy's demand by hand, mail express delivery, or other means, at out office located at _____, we will honor the demand and make payment, by 3 p.m. Eastern Time of the next business day following receipt of the demand,

by either wire transfer of funds as a deposit to the account of the U.S. Treasury over the Fedwire Deposit System Network, or by electronic funds transfer through the Automated Clearing House Network, using the Federal Remittance Express Program. The information to be included in each transfer will be as provided by the above referenced Notice of Sale.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision, International Chamber of Commerce Publication No 500) and except as may be inconsistent therewith, to the Uniform Commercial Code in effect on the date of issuance of this Letter of Credit in the State in which the issuer's head office within the United States is located.

Address all communications regarding this Letter of Credit to _____.

Yours truly,

_____
(Authorized Signature)

_____
(Typed Name and Title)

INSTRUCTIONS FOR OFFER LETTER OF CREDIT

1. Letters of Credit must not vary in substance from this attachment. Provide a copy of this exhibit to your bank.

2. Insert date of issuance of Letter of Credit.

3. Insert dollar amount of Letter of Credit in numbers and in words.

4. Banks shall fill in all blanks except those in drawing statement. The drawing statement is in bold print with double lines for the blanks. Do not fill in the double-lined blanks.

5. The information to be included and format to be used either for wire transfer as a deposit over the Fedwire Deposit System Network or for electronic funds transfer through the Automated Clearing House network, using the Federal Remittance Express Program, will be provided in the applicable Notice of Sale.

6. If available, please include the American Bank Association Number on Letter of Credit.

7. Type name under authorized signature.

8. If Offeror (banks's customer) or bank forwards letter of credit separately from the offer, the envelope shall clearly say "Offer Standby Letter of Credit (Name of Company)" and shall be clearly marked in accordance with Standard Sales Provision B.7(c).

EXHIBIT G

SAMPLE - PAYMENT AND PERFORMANCE LETTER OF CREDIT

BANK LETTERHEAD

IRREVOCABLE STANDBY LETTER OF CREDIT

DATE: _____

TO: Acquisition and Sales Division
Mail Stop FE-4451
Project Management Office
Strategic Petroleum Reserve
U.S. Department of Energy
900 Commerce Road East
New Orleans, LA 70123

CONTRACTOR: _____
CONTRACT NO.: _____
LETTER OF CREDIT NO.: _____

Gentlemen:

We hereby establish in the U.S. Department of Energy's favor our irrevocable standby Letter of Credit for about $U.S_____(_____) effective immediately. This letter of credit is available by your draft/s at sight, drawn on us and accompanied by a manually signed statement that the signer is an authorized representative of the Department of Energy, and one or both of the following statements:

a. **"I HEREBY CERTIFY THAT THE UNITED STATES GOVERNMENT HAS DELIVERED CRUDE OIL UNDER THE TERMS OF CONTRACT NUMBER_____AND THAT (CONTRACTOR) HAS NOT PAID UNDER THE TERMS OF THAT CONTRACT, AND AS A RESULT OWES THE GOVERNMENT $_____."**

b. **" I HEREBY CERTIFY THAT (CONTRACTOR) HAS FAILED TO TAKE DELIVERY OF CRUDE OIL UNDER THE TERMS OF CONTRACT NUMBER _____, AND AS A RESULT OWES THE GOVERNMENT $_____."**

Drafts must be presented for negotiations on or before the expiration date of this Letter of Credit, (Expiration Date), at our bank. The Government may make multiple drafts against this Letter of Credit.

Upon receipt of the U.S. Department of Energy's demand by hand, mail express delivery, or other means, at out office we will honor the demand and make payment, by 3 p.m. Eastern Time of the next business day following receipt of the demand, by either wire transfer of funds as a

deposit to the account of the U.S. Treasury over the Fedwire Deposit System Network, or by electronic funds transfer through the Automated Clearing House Network, using the Federal Remittance Express Program. The information to be included in each transfer will be as provided in the above referenced Contract.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision, International Chamber of Commerce Publication No. 500) and except as may be inconsistent therewith, to the Uniform Commercial Code in effect on the date of issuance of this Letter of Credit in the state in which the issuer's head office within the United States is located.

We hereby agree with the drawers, endorsers and bona fide holders that all drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation and delivery of the above documents for negotiation at our bank on or before the expiration date.

Sincerely,

_____
(Authorized Signature)

_____
(Typed Name and Title)

INSTRUCTIONS FOR PAYMENT AND PERFORMANCE LETTER OF CREDIT

1. Letter of Credit must not vary in substance from this attachment. Provide a copy of this attachment to your bank.

2. Insert date of issuance of Letter of Credit.

3. Insert dollar amount of Letter of Credit in numbers and in words.

4. Banks shall fill in all blanks except those in the drawing statements. The drawing statements are in bold print with double lines for the blanks. Do not fill in the double-lined blanks.

5. The information to be included and format to be used either for wire transfer as a deposit over the Fedwire Deposit System Network or for electronic funds transfer through the Automated Clearing House network, using the Federal Remittance Express Program, will be provided in the Contract.

6. If available please include the American Bank Association Number on Letter of Credit.

7. Type name under authorized signature.

Exhibit H

STRATEGIC PETROLEUM RESERVE CRUDE OIL DELIVERY REPORT

1. SALES CONTRACT NUMBER	2. TERMINAL REPORT NUMBER	3. CARGO NUMBER

4. DATE DELIVERED	5. TRANSPORTATION MODE	6. ACCEPTANCE POINT	7. PRICE DATE
	☐ TANKER ☐ BARGE ☐ PIPELINE	☐ ORIGIN ☐ DESTINATION	

8. SHIPPING SPR SITE/TERMINAL	9. PURCHASER-NAME AND ADDRESS	10. CARRIER

11. CONTRACT LINE ITEM MLI	11. CONTRACT LINE ITEM DLI	12. DESCRIPTION OF CRUDE OIL AND GROSS BBLS	13. API GRAVITY	14. TOTAL SULPHUR %	15. DEL'D NET BBLS @ 60°F	16. UNIT PRICE	17. AMOUNT DUE
18. QUALITY ADJUSTMENT – INCREASE/(DECREASE) 18A. NET GRAVITY ADJUSTMENT FROM 18B(5)_____°							

18B. CALCULATION OF GRAVITY ADJUSTMENT

(1) ADVERTISED API GRAVITY	
(2) DELIVERED API GRAVITY	
(3) VARIANCE—(2) MINUS (1)	
(4) ALLOWABLE VARIANCE	
(5) NET VARIANCE—(3) MINUS (4)	

19. NET AMOUNT DUE

20. THE DELIVERED NET BARRELS, UNIT PRICE, PRICE DATE, QUALITY ADJUSTMENT AND NET AMOUNT DUE HAVE BEEN VERIFIED.

SIGNATURE: _____
ACCOUNTABLE OFFICER

22. REMARKS

21. TIME STATEMENT	DATE	TIME
NOTICE OF READINESS TO LOAD		
VESSEL ARRIVED IN ROADS		
PILOT ON BOARD		
WEIGHED ANCHOR		
FIRST LINE ASHORE		
MOORED ALONGSIDE		
STARTED BALLAST DISCHARGE		
FINISHED BALLAST DISCHARGE		
INSPECTED AND READY TO LOAD		
CARGO HOSES CONNECTED		
COMMENCED LOADING		
STOPPED LOADING		
RESUMED LOADING		
FINISHED LOADING		
CARGO HOSES REMOVED		
VESSEL RELEASED BY INSPECTOR		
COMMENCED BUNKERING		
FINISHED BUNKERING		
VESSEL LEFT BERTH (ACTUAL OR ESTIMATED)		

23. GOVERNMENT INSPECTOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE (VESSEL CARGO) (PIPELINE SHIPMENT) WAS INSPECTED, DELIVERED AND ACCEPTED AS SHOWN HEREON.

DATE_____ SIGNATURE_____

NAME TYPED/PRINTED

24. RECEIPT IS ACKNOWLEDGED FOR THE QUANTITY AND QUALITY SHOWN HEREON:

DATE RECEIVED:_____

AGENT:_____

BY:_____
NAME TYPED/PRINTED

25. I CERTIFY THAT THE TIME STATEMENT SHOWN IHEREON IS CORRECT.

SIGNATURE_____
MASTER OF VESSEL

SPRPMO-F-6110.2-14b 1/87 REV. 8/91

EXHIBIT I

INSTRUCTION GUIDE FOR RETURN OF OFFER GUARANTEES BY ELECTRONIC TRANSFER OR TREASURY CHECK

Offer guarantees will be returned at the option of the Government by either check or electronic funds transfer through the Treasury Fedline Payment System (FEDLINE). Offerors shall designate a financial institution for receipt of electronic funds transfer payments and provide the following information:

(1) Name and address of the financial institution receiving payment.

(2) The American Bankers Association 9-digit identifying number for wire transfers of the financing institution receiving payment if the institution has access to FEDLINE.

(3) Payee's account number at the financial institution where funds are to be transferred.

(4) If the financial institution does not have access to FEDLINE, name and address of the correspondent financial institution through which the financial institution receiving payment obtains wire transfer activity. Provide the American Bankers Association identifying number for the correspondent institution.

EXHIBIT J

OFFER GUARANTEE CALCULATION WORKSHEET

MLI:

COLUMN	(A) MAXQ (000/bbls)	(B) UNIT PRICE	(C) DLI	(D) DESQ (000/bbls)	(E) MINQ (000/bbls)	(F) TOTAL DLI PRICE (000/$)	(G) BOND FACTOR	(H) PRODUCT ($)
ROW								
1		$				$	x50	$
2		$				$	x50	$
3		$				$	x50	$
4		$				$	x50	$
5		$				$	x50	$
6		$				$	x50	$
7		$				$	x50	$
8		$				$	x50	$
9		$				$	x50	$
10		$				$	x50	$
11		$				$	x50	$
							Total	$

1. Using a separate worksheet for each MLI offered against, from the SPR Sales Offer Form, enter the MLI maximum quantity offered on (expressed in thousands of barrels) in Column (A), Row 1.

2. Starting with the highest DLI unit price offered on the MLI from the SPR Sales Offer Form (and the highest preference if the unit prices of two or more DLIs are the same) enter the unit price in Row 1, Column (B); the DLI letter in Row 1, Column (C); the DLI desired quantity is Row 1, Column (D) (in thousands of barrels) and the minimum quantity in Row 1, Column (E). (The minimum quantity is either the Government's minimum contract quantity, if the offer indicates the offeror will accept as little as that amount, or the desired quantity, if the offeror indicates he will accept no less than that amount. See instructions for the SPR Sales Offer Form.)

3. If either the desired quantity in Column (D), or the minimum quantity in Column (E) exceeds the maximum quantity in Column (A), you have made an error either on this form or the offer form and should recheck your figures.

4. Multiply the price in Row 1, Column (B) times the desired quantity in Column (D) (as expressed in thousands) and enter the total DLI price in Column (F).

5. Multiply the total DLI price in Column (F) times the factor in Column (G) and enter the product in Column (H). The factor is 5% of 1000.

6. Subtract the DLI desired quantity in Row 1, Column (D) from the maximum quantity in Row 1, Column (A). Enter the result in Row 2, Column (A). If the result is zero, go to step 11.

7. Enter the next highest unit price for the MLI from the offer form in Row 2, Column (B). Enter the DLI letter, desired quantity, and minimum quantity in their respective columns. If there is a maximum quantity remaining in Row 2, Column (A), but no more DLI offers, or the minimum quantity in Row 2, Column (E) exceeds the maximum quantity, you may have made an error and should recheck your figures.

8. Multiply the lesser of the remaining maximum quantity in Column (A) (even if this quantity is less than MINQ), or the desired quantity in Column (D) times the unit price and enter the resulting total DLI price in Column (F).

9. Multiply Column (F) times the factor in Column (G) and enter the product in Column (H).

10. Repeat steps 6-9 for the next higher unit price until the maximum quantity remaining is zero, then go to step 11.

11. Sum the amounts in Column (H) and enter the total in Row 8, Column (H). Sum this amount for all the worksheets. If the sum of all the worksheets is less than $10,000,000, enter the sum in the spaces marked offer bond on the SPR Sales Offer Form. If the sum exceeds $10,000,000, then enter $10,000,000 on the offer form. Send with the offer or wire concurrently to the U.S. Treasury (refer to instructions in the Notice of Sale) an offer guarantee in the amount indicated on the offer form. These worksheets need not be submitted with the offer and should be retained for your files.

[FR Doc. 98–26467 Filed 10–7–98; 8:45 am]
BILLING CODE 6450–01–C

Federal Register

Thursday
October 8, 1998

Part III

Department of Energy

Federal Energy Regulatory Commission

18 CFR Part 37

Open Access Same-Time Information System and Standards of Conduct; Final Rule

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM95–9–003]

Open Access Same-Time Information System and Standards of Conduct

Issued September 29, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order issuing revised OASIS standards and protocols document.

SUMMARY: In this order, the Federal Energy Regulatory Commission (the Commission): issues a revised OASIS Standards and Protocols Document (Version 1.3); grants a three-month extension of time for implementing Version 1.3 of the revised OASIS Standards and Protocols Document; and grants a two-month extension of time for implementing the Commission's requirements on unmasking source and sink information.

DATES: Version 1.3 of the OASIS Standards and Protocols Document becomes effective March 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Marvin Rosenberg (Technical Information), Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–1283

Paul Robb (Technical Information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 219–2702

Gary D. Cohen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–0321.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, DC 20426. In addition, the Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission. CIPS can be accessed via Internet through FERC's Homepage (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS is also available through the Commission's electronic bulletin board service at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397, if dialing locally, or 1–800–856–3920, if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. User assistance is available at (202) 208–2474 or by E-Mail to CipsMaster@FERC.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at (202) 208–2222, or by E-Mail to RimsMaster@FERC.fed.us.

Finally, the complete text in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc., is located in the Public Reference Room at 888 First Street, N.E., Washington D.C. 20426.

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, William L. Massey, Linda Breathitt, and Curt Hébert, Jr.

Order Issuing Revised OASIS Standards and Protocols Document, Granting Three-Month Extension of Time for Implementing Revised OASIS Standards and Protocols Document, and Granting Two-Month Extension of Time for Implementing the Commission's Requirements on Unmasking Source and Sink Information

After consideration of suggested changes advanced by the OASIS How Working Group (How Group) and other interested persons, we are issuing a revised version (version 1.3) of the *OASIS Standards and Communications Protocols* document (referred to herein as the S&CP Document), consisting of revisions to version 1.2 of the S&CP Document issued by the Commission on June 18, 1998. Moreover, in response to a request from the How Group and the Commercial Practices Working Group (CPWG), we are granting a three-month extension, until March 1, 1999, for implementation of the requirements of version 1.3 and a two-month extension, also until March 1, 1999, for implementation of the Commission's requirements on the unmasking of source and sink information.

Background

In an order issued on June 18, 1998,[1] the Commission issued version 1.2 of the S&CP Document[2] and invited the How Group to file with the Commission a revised submittal, within 21 days of the date of issuance of the June 18 Order that, ''to the greatest extent possible identifies all needed corrections to the S&CP Document.''[3] The June 18 Order also requested that the How Group,

> Reach consensus on an industry-wide uniform format, which could be easily obtained and widely used by industry participants, to cover both organizational charts and job descriptions, or at a minimum, one uniform format for organizational charts and another uniform format for job descriptions. To this end, we request that the How Group, within 90 days of the date of issuance of this order, develop an industry-wide uniform format for organizational charts and job descriptions, and submit its recommendations on this issue to the Commission.[4]

On July 15, 1998, the How Group filed a proposed version 1.3 of the S&CP Document, consisting of proposed clarifications and corrections to version 1.2 of the S&CP Document. These revisions included a proposal to add subsection 3.4(k) to the S&CP Document that would prescribe a standard method for posting organizational charts, job descriptions, and personnel names.

On July 22, 1998, the Commission issued a notice of filing, inviting interested persons to file comments with the Commission on or before August 21, 1998.

On August 11, 1998, the How Group and the CPWG jointly filed a letter requesting: (1) a delay in the date of implementation of the OASIS Phase 1–A S&CP Document (*i.e.*, version 1.3) until March 1, 1999 (a three-month delay); (2) a delay in the implementation date for the Commission's new rules on the unmasking of source and sink information (established in the June 18 Order)[5] until March 1, 1999 (a two-month delay); and (3) approval of the industry's Phase 1–A report on business practices, for implementation on March 1, 1999.

---

[1] Open Access Same-time Information System and Standards of Conduct, 63 FR 38,884 (July 20, 1998) 83 FERC ¶ 61,360 at 62,466, (June 18 Order).

[2] 83 FERC at 62,466–67.

[3] 83 FERC at 62,452, n.13.

[4] *Id.*

[5] 83 FERC at 62,456–67.

On August 21, 1998, Southern Company Services, Inc., (Southern)[6] filed comments supportive of the How Group's filing. However, Southern states that a few additional minor technical revisions need to be made to the document. Southern states that it discussed these additional proposed edits with the How Group at a How Group meeting held on July 23–24, 1998 and that, upon review, the How Group agrees with Southern that the additional technical revisions described in Southern's comments (and specified in an attachment to Southern's comments) need to be made.

Also on August 21, 1998, Enron Power Marketing, Inc. (EPMI) filed a motion to intervene raising no substantive issues.

Discussion

A. Issuance of the Revised S&CP Document (Version 1.3)

As explained in the June 18 Order,[7] the Commission has received a series of corrections and edits to the Phase 1–A S&CP Document. In the interests of issuing a revised document as free from errors as possible, we invited the How Group to carefully review this document and to file a revised document that, to the greatest extent possible, identified all needed corrections to the S&CP Document. The How Group complied with this request and submitted a revised Phase 1–A S&CP Document on July 15, 1998.

However, Southern has identified three additional minor technical revisions that should be made to the document. These revisions: (1) add ''START__TIME'' and ''STOP__TIME'' to the list of data elements under the ''INPUT'' and ''RESPONSE'' portions of several specified templates;[8] (2) add ''STUDY'' and ''DISPLACED'' as permissible ''STATUS'' values;[9] and (3) add further ''STATUS'' values in section 4.3.9.3.[10]

We have reviewed the How Group's submittal along with Southern's comments (the only substantive comments filed in response to our notice of the How Group's filing) and find that this document improves upon version 1.2 of the S&CP Document. We, therefore, adopt version 1.3 of the S&CP Document,[11] as modified herein.[12]

B. Implementation Date for Version 1.3 of the S&CP Document

The August 11, 1998 How Group/CPWG joint letter requested a delay in the implementation date of the OASIS Phase 1–A S&CP Document (*i.e.*, version 1.3) until March 1, 1999 (a three-month delay). In support of this request, the How Group and CPWG argue that this delay will assure that the revised S&P Document will not need to be implemented at the start of the winter peak season. The How Group and CPWG argue that, by avoiding implementation of this requirement during the winter peak season, potential adverse effects on system reliability will be avoided. They argue that fears of disruption are not hypothetical, but are based on companies' experiences in implementing OASIS Phase 1 requirements. The additional time will also allow customers and transmission providers time to complete modifications to ''backend'' systems to connect with OASIS servers.

We agree. A three-month delay that minimizes potential start-up problems and avoids possible disruptions to reliability is appropriate. We will therefore modify the implementation date for version 1.3 of the S&CP Document to require implementation by March 1, 1999. Our determination in this regard is without prejudice to the pending requests for rehearing, on other grounds, of the June 18, 1998 Order. By addressing this request for a delayed implementation date, we intend no judgment on the merits of those pending requests for rehearing.

C. Implementation Date for New Rules on Unmasking Source and Sink Information

The August 11, 1998 How Group/CPWG joint letter requested a delay in the implementation date for the Commission's new rules on unmasking of source and sink on the OASIS until March 1, 1999 (a two-month delay). In support of this request, the How Group and CPWG argue that having the same implementation date for the Commission's new rules on unmasking of source and sink information as for the revised S&CP Document will reduce the cost of implementation and will avoid the risk that the industry simultaneously will face the requirement to comply with the Commission's new rules on unmasking source and sink information and possible Year 2000 anomalies.

We agree that a two-month delay is appropriate. We, therefore, will modify the implementation date for compliance with the Commission's new rules on unmasking source and sink information to require compliance with this requirement by March 1, 1999. Our determination in this regard is without prejudice to the pending requests for rehearing of the June 18, 1998 Order. By addressing this request for a delayed implementation date, we intend no judgment on the merits of those pending requests for rehearing.

The Commission Orders

(A) Version 1.3 of the OASIS Phase 1–A S&CP Document (as shown on Attachment 1 to this order) is hereby adopted for use on and after March 1, 1999, as discussed in the body of this order.

(B) The effective date for the requirements on unmasking source and sink information is hereby changed to March 1, 1999, as discussed in the body of this order.

By the Commission. Commissioner Bailey concurred with a separate statement attached.

David P. Boergers,

Secretary.

[6] Southern's comments are filed on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company.

[7] 83 FERC at 62,452, n.13.

[8] Southern explains that this revision is needed because the narrative accompanying these sections references their inclusion. Southern Comments at 2.

[9] Southern explains that this revision is needed because section 4.3.9.2 provides that the values for ''STATUS'' and the processing of ''STATUS'' are to be the same as in section 4.3.7.2, which includes ''STUDY'' and ''DISPLACED'' as permissible ''STATUS'' values. Southern Comments at 2–3.

[10] Southern explains that this revision is needed to make the ''STATUS'' values in this section equivalent to those in section 4.3.7.3. Southern Comments at 3.

[11] Version 1.3 of the S&CP Document, without redline and strikeout fonts, is provided in Attachment 1. Attachment 2 to this order shows all the changes that we have made and direct to version 1.2 of the S&CP Document in redline and strikeout fonts. We will publish Attachment 1 in the **Federal Register**. However, as redline and strikeout fonts do not show up in the **Federal Register**, we will not publish Attachment 2 in the **Federal Register**. It will, however, be made available on CIPS, RIMS, and in the Public Reference Room.

[12] We note that the document we are labeling as version 1.3 of the S&CP Document differs from the How Group's proposed version 1.3 of the S&CP Document. The difference between the two documents is based on our inclusion of the revisions suggested by Southern's comments and a few nonsubstantive corrections (*i.e.*, revised fonts and corrections to the table of contents).

[Note: This attachment will not appear in the Code of Federal Regulations.]

ATTACHMENT 1—Federal Energy Regulatory Commission, Standards and Communication Protocols for Open Access Same-Time Information System (OASIS)

Version 1.3

September 29, 1998

Table of Contents

1. Introduction

1.1 Definition of Terms

The following definitions are offered to clarify discussions of the OASIS in this document.

a. Transmission Services Information (TS Information) is transmission and ancillary services information that must be made available by public utilities on a non-discriminatory basis to meet the regulatory requirements of transmission open access.

b. Open Access Same-Time Information System (OASIS) comprises the computer systems and associated communications facilities that public utilities are required to provide for the purpose of making available to all transmission users comparable interactions with TS Information.

c. Open Access Same-Time Information System Node (OASIS Node) is a subsystem of the OASIS. It is one computer system in the (OASIS) that provides access to TS Information to a Transmission Customer.

d. Transmission Provider (TP or Primary Provider) is the public utility (or its designated agent) that owns, operates or controls facilities used for the transmission of electric energy in interstate commerce. (This is the same term as is used in Part 35.3).

e. Transmission Customer (TC or Customer) is any eligible Customer (or its designated agent) that can or does execute a transmission service agreement or can or does receive transmission service. (This is the same term as is used in Part 35.3).

f. Secondary Transmission Provider (ST, Reseller, or Secondary Provider) is any Customer who offers to sell transmission capacity it has purchased. (This is the same as Reseller in Part 37).

g. Transmission Services Information Provider (TSIP) is a Transmission Provider or an agent to whom the Transmission Provider has delegated the responsibility of meeting any of the requirements of Part 37. (This is the same as Responsible Party in Part 37).

h. Value-Added Transmission Services Information Provider (VTSIP) is an entity who uses TS Information in the same manner as a Customer and provides value-added information services to its Customers.

2. Network Architecture Requirements

2.1 Architecture of Oasis Nodes

a. Permit Use of Any OASIS Node Computers: TSIPs shall be permitted to use any computer systems as an OASIS Node, so long as they meet the OASIS requirements.

b. Permit Use of Any Customer Computers: OASIS Nodes shall permit the use by Customers of any commonly available computer systems, as long as they support the required communication links to the Internet.

c. Permit the Offering of Value-Added Services: TSIPs are required, upon request, to provide their Customers the use of private network connections on a cost recovery basis. Additional services which are beyond the scope of the minimum OASIS requirements are also permitted. When provided, these private connections and additional services shall be offered on a fair and non-discriminatory basis to all Customers who might choose to use these services.

d. Permit Use of Existing Communications Facilities: In implementing the OASIS, the use of existing communications facilities shall be permitted. The use of OASIS communication facilities for the exchange of information beyond that required for open transmission access (e.g., transfer of system security or operations data between regional control centers) shall also be permitted, provided that such use does not negatively impact the exchange of open transmission access data and is consistent with the Standards of Conduct in Part 37.

e. Single or Multiple Providers per Node: An OASIS Node may support a single individual Primary Provider (plus any Secondary Providers) or may support many Primary Providers.

2.2 Internet-Based Oasis Network

a. Internet Compatibility: All OASIS Nodes shall support the use of internet tools, internet directory services, and internet communication protocols necessary to support the Information Access requirements stated in Section 4.

b. Connection through the Public Internet: Connection of OASIS Nodes to the public Internet is required so that Users may access them through Internet links. This connection shall be made through a firewall to improve security.

c. Connection to a Private Internet Network: OASIS Nodes shall support private connections to any OASIS User (User) who requests such a connection. The TSIP is permitted to charge the User, based on cost, for these connections. The same internet tools shall be required for these private networks as are required for the public Internet. Private connections must be provided to all users on a fair and nondiscriminatory basis.

d. Internet Communications Channel: The OASIS Nodes shall utilize a communication channel to the Internet which is adequate to support the performance requirements given the number of Users subscribed to the Providers on the Node (see section 5.3).

2.3 Communication Standards Required

a. Point-to-Point Protocol (PPP) and Internet Protocol Control Protocol (IPCP) (reference RFCs 1331 and 1332) shall be supported for private internet network dial-up connections.

b. Serial Line Internet Protocol (SLIP) (reference RFC 1055) shall be supported for private internet network dial-up connections.

c. Transport Control Protocol and Internet Protocol (TCP/IP) shall be the only protocol set used between OASIS Nodes whenever they are directly interconnected, or between OASIS Nodes and Users using private leased line internet network connections.

d. Hyper Text Transport Protocol (HTTP), Version 1.0 (RFC 1945), shall be supported by TSIPs so that User's web browsers can use it to select information for viewing displays and for downloading and uploading files electronically.

e. Internet Protocol Address: All OASIS Nodes are required to use an IP address registered with the Internet Network Information Center (InterNIC), even if private connections are used.

2.4 Internet Tool Requirements

Support for the following specific internet tools is required, both for use over the public Internet as well as for any private connections between Users and OASIS Nodes:

a. Browser Support: OASIS Nodes shall insure that Users running minimally either Netscape's Navigator version 4.0.x or Microsoft's Internet Explorer version 4.0.x browsers (or any other commercially or privately available browser supporting that set of capabilities common to both of these industry standard browsers) shall have a fully functional user interface based on the Interface Requirements defined in Section 4.

b. HTML Forms shall be provided by the TSIPs to allow Customers to enter information to the OASIS Node.

c. Domain Name Service (DNS) (ref. RFC 1034, 1035) shall be provided as a minimum by the TSIPs (or their Internet Service Provider) for the resolution of IP addresses to allow Users to navigate easily between OASIS Nodes.

d. Simple Network Management Protocol (SNMP) is recommended but not required to provide tools for operating and managing the network, if private interconnections between OASIS Nodes are established.

e. The Primary Provider shall support E-mail for exchanges with Customers, including the sending of attachments. The protocols supported shall include, as a minimum, the Simple Messaging Transfer Protocol (SMTP), Post Office Protocol (POP), and Multipurpose Internet Mail Extensions (MIME).

2.5 Navigation and Interconnectivity Between Oasis Nodes

a. World Wide Web Browsers: TSIPs shall permit Users to navigate using WWW browsers for accessing different sets of TS Information from one Provider, or for getting to TS Information from different Providers on the same OASIS Node. These navigation methods shall not favor User access to any Provider over another Provider, including Secondary Providers.

b. Internet Interconnection across OASIS Nodes: Navigation tools shall not only support navigation within the TSIP's Node, but also across interconnected OASIS Nodes. This navigation capability across interconnected Nodes shall, as a minimum, be possible through the public Internet.

3. Information Access Requirements

3.1 Registration and Login Requirements

a. Location of Providers: To provide Users with the information necessary to access the desired Provider, all Primary Providers shall register their OASIS Node URL address with www.tsin.com. This URL address should include the unique four letter acronym the Primary Provider will use as the PRIMARY__PROVIDER__CODE.

b. Initial User Registration: TSIPs shall require Users to register with a Primary Provider before they are permitted to access the Provider's TS Information. There must be a reference pointing to registration procedures on each Primary Provider's home page. Registration procedures may vary with the administrative requirements of each Primary Provider.

c. Initial Access Privileges: Initial registration shall permit a User only the minimum Access Privileges. A User and a Primary Provider shall mutually determine what access privilege the User is permitted. The TSIP shall set a User's Access Privilege as authorized by the Primary Provider.

d. User Login: After registration, Users shall be required to login every time they establish a dial-up connection. If a direct, permanent connection has been established, Users shall be required to login initially or any time the connection is lost. Use of alternative forms of login and authentication using certificates and public key standards is acceptable.

e. User Logout: Users shall be automatically logged out any time they are disconnected. Users may logout voluntarily.

3.2 Service Level Agreements

Service Level Agreements: It is recognized that Users will have different requirements for frequency of access, performance, etc., based on their unique business needs. To accommodate these differing requirements, TSIPs shall be required to establish a ''Service Level Agreement'' with each User which specifies the terms and conditions for access to the information posted by the Providers. The default Service Level Agreement shall be Internet access with the OASIS Node meeting all minimum performance requirements.

3.3 Access to Information

a. Display: TSIPs shall format all TS Information in HTML format such that it may be viewed and read directly by Users without requiring them to download it. This information shall be in clear English as much as possible, with the definitions of any mnemonics or abbreviations available on-line. The minimum information that is to be displayed is provided in the Templates in Section 4.3.

b. Read-Only Access to TS Information: For security reasons, Users shall have read-only access to the TS Information. They shall not be permitted to enter any information except where explicitly allowed, such as HTML transaction request forms or by the Templates in Section 4.3.

c. Downloading Capability: Users shall be able to download from an OASIS Node the TS Information in electronic format as a file. The rules for formatting of this data are described in Section 4.2.

d. On-Line Data Entry on Forms: Customers shall be permitted to fill out on-line the HTML forms supplied by the TSIPs, for requesting the purchase of services and for posting of products for sale (by Customers who are resellers). Customers shall also be permitted to fill-out and post Want-Ads.

e. Uploading Capability: Customers shall be able to upload to OASIS Nodes the filled-out forms. TSIPs shall ensure that these uploaded forms are handled identically to forms filled out on-line. TSIPs shall provide forms that support the HTTP input of Comma Separated Variable (CSV) records. This capability shall permit a Customer to upload CSV records using standard Web browsers or additional client software (such as fetch__http) to specify the location of the CSV records stored on the Customer's hard disk.

f. Selection of TS Information: Users shall be able to dynamically select the TS Information they want to view and/or download. This selection shall be, as a minimum, through navigation to text displays, the use of pull-down menus to select information for display, data entry into forms for initiating queries, and the selection of files to download via menus.

3.4 Provider Updating Requirements

The following are the Provider update requirements:

a. Provider Posting of TS Information: Each Provider (including Secondary Providers and Value-Added Providers) shall be responsible for writing (posting) and updating TS Information on their OASIS Node. No User shall be permitted to modify a Provider's Information.

b. INFO.HTM: Each Provider shall provide general information on how to use their node and describe all special aspects, such as line losses, congestion charges and assistance. The address for the directory of this information shall be INFO.HTM (case sensitive), an HTML web page, linked to the Provider's registered URL address.

c. OASIS Node Space for Secondary Provider: To permit Users to readily find TS Information for the transmission systems that they are interested in, TSIPs shall provide database space on their OASIS Node for all Secondary Providers who have purchased, and who request to resell, transmission access rights for the power systems of the Primary Providers supported by that Node.

d. Secondary Provider Posting to Primary Provider Node: The Secondary Providers shall post the relevant TS Information on the OASIS Node associated with each Primary Provider from whom the transmission access rights were originally purchased.

e. Secondary Provider Posting Capabilities: The TSIPs shall ensure that the Secondary Providers shall be able to post their TS Information to the appropriate OASIS Nodes using the same tools and capabilities as the Customers, meet the same performance criteria as the Primary Providers, and allow users to view these postings on the same display page, using the same tables, as similar capacity being sold by the Primary Providers.

f. Free-Form Posting of non-TS Information: The TSIP shall ensure that non-TS Information, such as Want-Ads, may be posted by Providers and Customers, and that this information is easily accessible by all Users. The TSIP shall be allowed to limit the volume and/or to charge for the posting of non-TS Information.

g. Time Stamps: All TS Information shall be associated with a time stamp to show when it was posted to the OASIS Node.

h. Transaction Tracking by an Assignment Reference Number: All requests for purchase of transmission or ancillary services will be marked by a unique accounting number, called an assignment reference.

i. Time-Stamped OASIS Audit Log: All posting of TS Information, all updating of TS Information, all User logins and disconnects, all User download requests, all Service Requests, and all other transactions shall be time stamped and stored in an OASIS Audit Log. This OASIS Audit Log shall be the official record of interactions, and shall be maintained on-line for download for at least 90 days. Changes in the values of posted Capacity (Available Transfer Capability) must be stored in the on-line Audit Log for 20 days. Audit records must be maintained for 3 years off-line and available in electronic form within seven days of a Customer request.

j. Studies: A summary description with dates, and programs used of all transmission studies used to prepare data for the Primary Provider's ATC and TTC calculation will be provided along with information as to how to obtain the study data and results.

k. Organizational Charts: As required in 83 FERC 61,301, each Provider shall provide the company's organizational chart, job descriptions, and personnel names, using formats viewable and downloadable directly (i.e., without the use of external or third-party plug-ins or application software) by the browsers listed in Section 2.4a.

3.5 Access to Changed Information

a. General Message & Log: TSIPs shall post a general message and log that may be read by Users. The message shall state that the Provider has updated some information, and shall contain (or point to) a reverse chronological log of those changes. This log may be the same as the Audit Log. The User may use the manual capability to see the message.

b. TSIP Notification Design Responsibilities: The TSIP shall avoid a design that could cause serious performance problems by necessitating frequent requests for information from many Users.

3.6 User Interaction With an OASIS Node

There are three basic types of User interactions which must be supported by the OASIS Node. These interactions are defined in Section 4.3.

a. Query/Response: The simplest level of interactions is the query of posted information and the corresponding response. The User may determine the scope of the information queried by specifying values, through an HTML form, a URL string, or an uploaded file, using Query Variables and their associated input values as defined with each Template in Section 4.3. The response will be either an HTML display or a record oriented file, depending on the output format that the User requests.

The TSIP may establish procedures to restrict the size of the response, if an overly broad query could result in a response which degrades the overall performance of the OASIS Node for their Users.

b. Purchase Request: The second type of Customer interaction is the submittal of a request to purchase a service. The Customer completes an input form, a URL string or uploads a file and submits it to the OASIS Node. The uploaded file can either be a series of query variables or a record oriented file.

The request is processed by the Seller of the service, possibly off-line from the OASIS Node, and the status is updated accordingly.

If a purchase request is approved by the Seller, then it must be again confirmed by the Customer. Once the Customer confirms an approved purchase, a reservation for those services is considered to exist, unless later the reservation is reassigned, displaced, or annulled.

c. Upload and Modify Postings: Customers who wish to resell their rights may upload a form, create the appropriate URL or upload a file to post services for sale. A similar process applies to eligible Third Party Sellers of ancillary services. The products are posted by the TSIP. The seller may monitor the status of the services by requesting status information. Similarly the Seller may modify its posted transmission services by submitting a service modification request through a form, a URL query, or by uploading a file.

4. Interface Requirements

4.1 Information Model Concepts

a. ASCII-Based OASIS Templates: For providing information to Users, TSIPs shall use the specified OASIS Templates. These Templates define the information which must be presented to Users, both in the form of graphical displays and as downloaded files. Users shall be able to request Template information using query-response data flows. The OASIS Templates are described in section 4.3. The Data Element Dictionary, which defines the data elements in the OASIS Templates, is provided in Appendix A.

Data elements must be used in the exact sequence and number as shown in the Templates when file uploads and downloads are used. Although the contents of the graphical displays are precisely defined as the same information as in the Templates, the actual graphical display formats of the TS information are beyond the scope of the OASIS requirements. Due to the nature of graphical displays, there may be more than one graphical display used to convey the information in a single Template.

b. ASCII-Based OASIS File Structures: For uploading requests from and downloading information to Users, TSIPs shall use specific file structures that are defined for OASIS Template information (see section 4.2). These file structures are based on the use of headers which contain the Query Variable information, including the name of the OASIS Template. These headers thus determine the contents and the format of the data that follows. Although headers may not be essential if file transfers contain the exact sequence and number of data elements as the Templates, this feature is being preserved for possible future use when additional flexibility may be allowed.

4.2 OASIS Node Conventions and Structures

4.2.1 OASIS Node Naming Requirements

The following naming conventions shall be used to locate information posted on an OASIS Node. OASIS naming conventions shall conform to standard URL structures.

4.2.1.1 OASIS Node Names

In order to provide a consistent method for locating an OASIS Node, the standard Internet naming convention shall be used. All OASIS Node names shall be unique. Each Primary Provider OASIS Node name and home directory shall be registered with the master OASIS directory site at http://www.tsin.com. OASIS Node names shall be stored in an Internet DNS name directory.

4.2.1.2 OASIS Node and Primary Provider Home Directory

The home directory name on an OASIS Node shall be ''OASIS'' (all upper case) to identify that the directory is related to the OASIS. The directory of each Primary Provider shall be listed under the ''OASIS'' directory:

http://(OASIS Node name)/OASIS/(PRIMARY__PROVIDER__CODE)

Where:

(OASIS Node name) is the World Wide Web URL address of the OASIS Information Provider.

(PRIMARY__PROVIDER__CODE) (case sensitive) is the 4 character acronym of the primary provider.

PRIMARY__PROVIDER__CODEs shall be registered with the master OASIS directory site at http://www.tsin.com. A pointer to user registration information shall be located on the Primary Provider's home page.

4.2.1.3 CGI Script Names

Common Gateway Interface (CGI) scripts shall be located in the directory ''data'' as follows (case sensitive):
http://(OASIS Node name)/OASIS/(PRIMARY__PROVIDER__CODE)/data/(cgi script name)?(query variables)

Where:

(cgi script name) is the OASIS Template name in lower case (see Section 4.3). Other cgi scripts may be defined as required to implement the HTML interface to the documented templates.

(query variables) is a list of query variables with their settings formatted as defined by the HTTP protocol (i.e., URL encoded separated by ampersands).

Example:

To request the hourly schedule Template at Primary Provider WXYZ Co. http://www.wxyz.com/OASIS/WXYZ/data/schedule ?templ=schedule& ver=1.2& fmt=data & stime=19960412040000PD &sptime=19960412100000PD& pprov=wxyz

4.2.2 Data Element Dictionary

The following are the requirements for the Data Element Dictionary:

a. Definition of OASIS Information Elements: All OASIS Information data elements shall be defined in the Data Element Dictionary which will be stored in the OASIS Node directory:

http://(OASISNode Name)/OASIS/(PRIMARY__PROVIDER__CODE)/ (datadic.htm|datadic.txt)

Where:

datadic.htm is the HTML version of the data element dictionary (case sensitive)
datadic.txt is the ASCII text version of the data element dictionary (case sensitive)

The Data Element Dictionary is defined in Appendix A.

b. Provider-specific Data Element Values: The valid values that certain OASIS Information data elements may take on, such as PATH__NAME, etc., are unique to a Primary Provider. Names which must be uniquely identified by Primary Provider shall be listed on-line on the OASIS Node via the LIST Template (see Section 4.3.5). In posting OASIS information associated with data elements which are not free-form text, TSIPs shall use only the accepted data element values listed in the Data Element Dictionary and/or those values posted in the LIST of provider specific names provided on the OASIS Node.

4.2.3 OASIS Template Constructs

4.2.3.1 Template Construction

Section 4.3 lists the set of OASIS Templates that shall be supported by all OASIS Nodes. These OASIS Templates are intended to be used precisely as shown for the transfer of data to/from OASIS Nodes, and identify, by Data Elements names, the information to be transferred. The construction of the OASIS Templates shall follow the rules described below:

a. Unique OASIS Template Name: Each type of OASIS Template shall be identified with a unique name which shall be displayed to the User whenever the OASIS Template is accessed.

b. Transfer Protocol: OASIS Templates are transferred using the HTTP protocol. Templates shall support both the ''GET'' and ''POST'' methods for transferring ''query string'' name/value pairs, as well as the OASIS specific ''comma separated value'' (CSV) format for posting and retrieval of information from OASIS Nodes. HTML screens and forms shall be implemented for each OASIS Template.

c. Source Information: Each OASIS Template shall identify the source of its information by including or linking to the name of the Primary Provider, the Secondary Provider, or the Customer who provided the information.

d. Time Of Last Update: Each OASIS Template shall include a time indicating when it was created or whenever the value of any Data Element was changed.

e. Data Elements: OASIS Templates shall define the elementary Data Element Dictionary names for the data values to be transferred or displayed for that Template.

f. Documentation: OASIS Information shall be in non-cryptic English, with all mnemonics defined in the Data Element Dictionary or a glossary of terms. TSIPs shall provide on-line descriptions and help screens to assist Users understanding the displayed information. Documentation of all formats, contents, and mnemonics shall be available both as displays and as files which can be downloaded electronically. In order to meet the ''User-Friendly'' goal and permit the flexibility of the OASIS Nodes to expand to meet new requirements, the OASIS Templates shall be as self-descriptive as possible.

4.2.3.2 Template Categories

OASIS Templates are grouped into the following two major categories:

a. Query/Response: These Templates are used to query and display information posted on an OASIS Node. Each query/response Template accepts a set of user specified Query Variables and returns the appropriate information from data posted on the OASIS Node based on those query variables. The valid Query Variables and information to be returned in response are identified by Data Element in Section 4.3.

b. Input/Response: These Templates are used to upload/input information on an OASIS Node. The required input information and information to be returned in response are identified by Data Element in Section 4.3, Template Descriptions.

4.2.3.3 Template HTML Screens

Though the exact form and content of the HTML screens and forms associated with the OASIS Templates are not dictated by this document, the following guidelines shall be adhered to for all HTML screens and forms implemented on an OASIS Node:

a. Data Element Headings: Data displayed in an HTML screen/form shall be labeled such that the associated data value(s) is(are) easily and readily identifiable as being associated with a particular OASIS Template Data Element. HTML ''Hot-Links'' or other pointer mechanisms may be provided for Data Element headings in OASIS Templates which permit the User to access documentation describing the meaning, type, and format of the associated data.

b. Display Limitations: HTML screens and forms shall be implemented in such a way to allow the display of all data specified for each OASIS Template. This may take the form of ''wrapping'' of lines of information on the screen, the use of horizontal and/or vertical scrolling, or the use of ''Hot-Links'' or other pointer mechanisms. There is not necessarily a one-to-one relationship between HTML screens implemented on OASIS Nodes, and their associated Template. However, all Template data elements shall be viewable through one or more HTML screens.

c. Template Navigation: HTML ''Hot-Links'' or other pointer mechanisms may be provided to assist the navigation between screens/forms associated with related OASIS Templates.

4.2.4 Query/Response Template Requirements

Retrieval of information posted on an OASIS Node is supported by the Query/Response Templates. The ''query'' identifies the OASIS Template and optionally supplies additional Data Elements which may be used to select specific information to be returned in the ''response''.

4.2.4.1 Query Requirements

Query information is transferred to an OASIS Node using the HTTP protocol as a string of Query Variables in the form of name/value pairs. Query Variable name/value pairs are specified as a collection of encoded strings (e.g., blank characters replaced by plus (+) character, etc.) in the form of name=value, with each name/value pair separated by ampersands (&) (see section 4.2.6). OASIS Nodes shall support the following methods for Users to input Query information:

a. HTML: HTML FORM input and/or hypertext links shall be provided to allow Users to specify OASIS Template Query Variables. This will be the easiest way to obtain information and should be the choice of most casual Users and for simple requests. The exact nature and form of these HTML screens are not specified, and may differ between OASIS Nodes.

b. GET Method: The HTTP GET method for specifying query information appended to a standard OASIS URL shall be supported. Using this method, the name=value formatted Query Variables preceded by a question mark (?) are appended to the URL. Each ''name'' in a name/value pair corresponds to a Data Element name associated with that Template. OASIS Nodes shall support the specification of all Data Elements associated with a Template by both their full name and alias as defined in the Data Dictionary. The ''value'' in a name/value pair represents the value to be associated with the Data Element being specified in the appropriate format as defined in the Data Dictionary and encoded according to the HTTP protocol.

c. POST Method: The HTTP POST method for specifying query information in the message body shall be supported. Using this method, the name=value formatted Query Variables shall be transferred to an OASIS Node using the ''Content-length:'' HTTP header to define the length in bytes of the encoded query string and the ''Content-type: application/x-www-form-urlencoded'' HTTP header to identify the data type included in the message body. Each ''name'' in a name/value pair corresponds to a Data Element name associated with that Template. An OASIS Node shall support the specification of all Data Elements associated with a Template by

both their full name and alias as defined in the Data Dictionary. The ''value'' in a name/value pair represents the value to be associated with the Data Element being specified in the appropriate format as defined in the Data Dictionary and encoded according to the HTTP protocol.

User queries using any of the above methods are supported directly by the User's web browser software. More sophisticated data transfer mechanisms, such as the automated querying of information based on Query Variable strings contained in a User data file (i.e., ''uploading a file containing a URL string), require appropriate software (e.g., ''fetch__http'') running on the User's computer system to effect the data transfer.

4.2.4.2 Response Requirements

In response to a validly formatted Query for each Query/Response OASIS Template, the OASIS Node shall return the requested information in one of two forms based on the User specified OUTPUT__FORMAT Query Variable:

a. HTML: If the User requests the response to have the format of ''HTML'' (OUTPUT__FORMAT=HTML) then the response from the OASIS Node shall be a web page using the HTML format. This shall be the default for all Query/Response Templates.

b. CSV Format: Comma Separated Value (CSV) format (OUTPUT__FORMAT=DATA) returns the requested information in the body of the HTTP response message. The ''Content-length:'' HTTP header shall define the length in bytes of the response, and the ''Content-type: text/x-oasis-csv'' HTTP header shall be used to identify the data type included in the message body (see CSV File Format).

4.2.5 Input/Response Template Requirements

The posting of information on an OASIS Node, including reservations for transmission/ancillary service, services for sale on the secondary market, etc., is supported by the Input/Response Templates. The ''input'' identifies the required data associated with an OASIS Template to be posted on the OASIS Node , and the ''response'' specifies the information returned to the User.

4.2.5.1 Input Requirements

Input information is transferred to an OASIS Node using the HTTP protocol as either a string of Query Variables in the form of name/value pairs, or as a Comma Separated Value (CSV) message. Query Variable name/value pairs are specified as a collection of encoded strings (e.g., blank characters replaced by plus (+) character, etc.) in the form of name=value, with each name/value pair separated by ampersands (&). CSV formatted messages are specified in the body of an HTTP message as a series of data records preceded by a fixed set of header records (see section 4.2.7).

OASIS Nodes shall support the following methods for Users to transfer Input data:

a. HTML: HTML FORM input shall be provided to allow Users to specify the necessary Input data associated with each Input/Response OASIS Template. This may be in the form of fill in blanks, buttons, pull-down selections, etc., and may use either the GET or POST methods. The exact nature and form of these HTML screens are not specified, and may differ between OASIS Nodes.

b. GET Method: The HTTP GET method for specifying Input information in the form of a query string appended to a standard OASIS URL shall be supported. Using this method, the name=value formatted Query Variables preceded by a question mark (?) are appended to the URL. Each ''name'' in a name/value pair corresponds to a Data Element name associated with that Template. OASIS Nodes shall support the specification of all Data Elements associated with a Template by both their full name and alias as defined in the Data Dictionary. The ''value'' in a name/value pair represents the value to be associated with the Data Element being specified in the appropriate format as defined in the Data Dictionary and encoded according to the HTTP protocol.

c. POST Method: The HTTP POST method for specifying Input information in the form of a query string in the message body shall be supported. Using this method, the name=value formatted Query Variables shall be transferred to an OASIS Node using the ''Content-length:'' HTTP header to define the length in bytes of the encoded query string and the ''Content-type: application/x-www-form-urlencoded'' HTTP header to identify the data type included in the message body. Each ''name'' in a name/value pair corresponds to a Data Element name associated with that Template. OASIS Nodes shall support the specification of all Data Elements associated with a Template by both their full name and alias as defined in the Data Dictionary. The ''value'' in a name/value pair represents the value to be associated with the Data Element being specified in the appropriate format as defined in the Data Dictionary and encoded according to the HTTP protocol.

d. CSV Format: Comma Separated Value (CSV) formatted Input information transferred in the body of a User's HTTP message shall be supported. The ''Content-length:'' HTTP header shall define the length in bytes of the Input, and the ''Content-type: text/x-oasis-csv'' HTTP header shall be used to identify the data type included in the message body.

4.2.5.2 Response to Input

In response to a validly formatted Input for each Input/Response OASIS Template, the OASIS Node shall return an indication as to the success/failure of the requested action. The OASIS Node shall respond to the Input in one of two forms, based on the OUTPUT__FORMAT, which was input by a User either as a Query Variable or in a CSV format Header Record:

a. HTML: If the User requests the response to have the format of ''HTML'' (OUTPUT__FORMAT=HTML) then the response from the OASIS Node shall be a web page using the HTML format. This shall be the default for all Input/Response Templates invoked using either the FORM, GET or POST methods of input.

b. CSV Format: Comma Separated Value (CSV) format (OUTPUT__FORMAT=DATA) returns the response information in the body of the HTTP response message. The ''Content-length:'' HTTP header shall define the length in bytes of the response, and the ''Content-type: text/x-oasis-csv'' HTTP header shall be used to identify the data type included in the message body. This shall be the default for all Input/Response Templates invoked using the CSV Format methods of input.

4.2.6 Query Variables

4.2.6.1 General

Both Query/Response and Input/Response OASIS Templates shall support the specification of a query string consisting of Query Variables formatted as name/value pairs. OASIS Nodes shall support the specification of Data Element names (''name'' portion of name=value pair) in both the full name and alias forms defined in the Data Dictionary. OASIS Nodes shall support the specification of Query Variables from the User using either the HTTP GET or POST methods. On input, Data Element names and associated values shall be accepted and processed without regard to case. On output, Data Element names and associated values may not necessarily retain the input case, and could be returned in either upper or lower case.

4.2.6.2 Standard Header Query Variables

The following standard Query Variable Data Elements shall be supported for all OASIS Templates and must be entered for each Query by a User:

VERSION
TEMPLATE
OUTPUT__FORMAT

PRIMARY__PROVIDER__CODE
PRIMARY__PROVIDER__DUNS
RETURN__TZ

Since these header Query Variables must be supported for all Templates, they are not listed explicitly in the Template descriptions in Section 4.3

All standard header Query Variables with appropriate values must be entered by the User.

4.2.6.3 Responses to Queries

Responses to Queries will include the following information as a minimum:

TIME__STAMP
VERSION
TEMPLATE
OUTPUT__FORMAT
PRIMARY__PROVIDER__CODE
PRIMARY__PROVIDER__DUNS
RETURN__TZ

The additional information shall include:

a. The requested information as defined by the Template indicated in the Query

b. For CSV downloads, the additional header Data Elements required (see section 4.2.7.3)

4.2.6.4 Multiple Instances

Certain Query Variables may be repeated in a given Query/Response OASIS Template query string. Such multiple instances are documented in the Template definitions using an asterisk (*) after the query variable. When more than one instance of the Query Variable is specified in the query string, OASIS Nodes shall recognize such multiple instances by either the Data Element's full name or alias suffixed with sequential numeric qualifiers starting with the number 1, (e.g., PATH__NAME1=abc&PATH__NAME2=xyz, or PATH1=abc&PATH2=xyz). At least 4 multiple instances will be permitted for each query variable marked with an asterisk (*).

4.2.6.5 Logical Operations

OASIS Nodes shall use the following logical operations when processing Query Variables for Query/Response OASIS Templates. All Query Variables, with the exception of multiple instances of the same Query Variable Data Element, shall be operated on to return information based on the logical-AND of those Query Variables. For example, the query string ''...SELLER__CODE=abc &PATH=xyz...'' should return information associated with only those records that are on transmission path ''xyz'' AND associated with transmission provider ''abc.'' Multiple instances of the same Query Variable shall be operated on as logical-OR. For example, ''...SELLER__CODE=abc &PATH1=xyz&PATH2=opq...'' should return information associated with transmission provider ''abc'' AND either transmission path ''xyz'' OR transmission path ''opq''. Some logical operations may exclude all possibilities, such that the responses may not contain any data.

4.2.6.6 Handling of Time Data Elements

In cases where a single query variable is provided to select information associated with a single template data element that represents a point in time (e.g., TIME__OF__LAST__UPDATE), OASIS Nodes shall return to the User all requested information whose associated data element time value (e.g. TIME__OF__LAST__UPDATE) is equal to or later than the value specified by the query variable. In this case the stop time is implicitly ''now''.

A pair of query variables (e.g. START__TIME—QUEUED and STOP—TIME—QUEUED) that represents the start and stop of a time interval but is associated with one single template data element (e.g. TIME__QUEUED) shall be handled by OASIS Nodes to return to the User all requested information whose associated data element time value falls within the specified time interval.

A pair of query variables (e.g. START__TIME and STOP__TIME query variables) that represents the start and stop of one time interval but is associated with another pair of template data elements (e.g. START__TIME and STOP__TIME of a service offering) that represents a second time interval, shall be handled by OASIS Nodes to return to the User all requested information whose associated data element time interval overlaps any portion of the specified time interval. Specifically, the START__TIME query variable selects all information whose STOP__TIME data element value is later than the START__TIME query variable, and the STOP__TIME query variable selects all information whose START__TIME data element value is earlier than the STOP__TIME query variable. For example:

The transoffering template query string ''START__TIME 970101000000ES&STOP—TIME 970201000000ES'' shall select from the OASIS database all associated offerings whose start/stop times overlap any portion of the time from 00:00 January 1, 1997, to 00:00 February 1, 1997. This would include offerings that (1) started prior to Jan. 1 and stopped any time on or after Jan. 1, and (2) started on or after Jan 1 but before Feb 1.

For changes to and from daylight savings time, either Universal Time or the correct time and zone must be used, based on whether daylight savings time is in effect.

All time values shall be checked upon input to ensure their validity with respect to date, time, time zone, and daylight savings time.

4.2.6.7 Default Values

Query Variables that are not specified by the User may take on default values as appropriate for that Query Variable at the discretion of the OASIS TSIP.

4.2.6.8 Limitations on Queries

OASIS TSIP may establish validation procedures and/or default values for Query Variables to restrict the size and/or performance impact of overly broad queries.

4.2.7 CSV Format

4.2.7.1 General Record Format

OASIS Users shall be able to upload information associated with Input/Response OASIS Templates and download information associated with all OASIS Templates using a standardized Comma Separated Value (CSV) format. CSV formatted data is transferred to/from OASIS Nodes as part of the body of an HTTP message using the ''Content-length:'' HTTP header to define the length in bytes of the message body, and the ''Content-type: text/x-oasis-csv'' HTTP header to identify the data type associated with the message body. CSV formatted data consists of a fixed set of header records followed by a variable number of data records. Each record shall be separated by a carriage return plus line feed (denoted by the symbol ↵ in all examples). The fields within a record shall be delimited by commas (,). All data within a CSV formatted message shall use printable ASCII characters with no other special embedded codes, with the exception of the special encoding requirements associated with text fields.

4.2.7.2 Input Header Records

The following standard header records are required for the uploading of Input data for all Input/Response OASIS Templates:

VERSION=nn.n¬
TEMPLATE=aaaaaaaaaa¬
OUTPUT__FORMAT=[DATA] ¬
PRIMARY__PROVIDER__CODE=aaaa¬
PRIMARY__PROVIDER__DUNS=nnnnnnnnn¬
RETURN__TZ=aa¬
DATA__ROWS=nnn¬
COLUMN__HEADERS=[Template data element names separated by commas] ¬

The format of the value associated with each of the Input header record Data Elements are dictated by the Data Dictionary.

The value associated with the DATA__ROWS Data Element shall define the total number of data records that follow in the message after the COLUMN__HEADERS record.

The COLUMN__HEADERS record defines, by Data Element name, the data associated with each comma separated column contained in each subsequent data record (row). On Input, either the Data Element's full name or alias listed in the Data Dictionary may be specified.

4.2.7.3 Response Header Records

When explicitly specified using the OUTPUT__FORMAT=DATA Query Variable or implied by the Input of a CSV format message, the OASIS Nodes shall respond with the following standard response header records for all OASIS Templates:

REQUEST__STATUS=nnn¬
ERROR__MESSAGE=aaa...¬
TIME__STAMP=yyyymmddhhmmsstz¬
VERSION=nn.n¬
TEMPLATE=aaaaaaaaaa¬
OUTPUT__FORMAT=DATA¬
PRIMARY__PROVIDER__CODE=aaaa¬
PRIMARY__PROVIDER__DUNS=nnnnnnnnn¬
RETURN__TZ=tz¬
DATA__ROWS=nnn¬
COLUMN__HEADERS=[Template data element names separated by commas] ¬

The format of the value associated with each of the Response header record Data Elements are dictated by the Data Dictionary.

The value associated with the DATA__ROWS Data Element shall define the total number of data records returned in the message following the COLUMN__HEADERS header record.

The COLUMN__HEADERS record defines, by Data Element name, the data associated with each comma-separated column contained in each subsequent data record (row). In all OASIS Node responses, the Data Element's full name shall be listed in the COLUMN__HEADERS record. The order of the column headings shall be the same as shown in the Templates for URL uploads and downloads. For graphical displays, the Provider may define the order that the Data Element names are shown.

4.2.7.4 Data Records

Data Records immediately follow the standard Input or Response header records. With the exception of data records grouped together as a single ''logical record'' through the use of Continuation Records, each data record in a CSV formatted Input message represents a single, complete execution of the associated OASIS Template. That is, sending five CSV formatted Input messages for a given Template to the same PRIMARY__PROVIDER__CODE with a single data record per message shall be handled in exactly the same fashion as sending a single CSV formatted Input message for the same Template and PRIMARY__PROVIDER__CODE which contains five data records.

Each field (column) within each data record defines the value to be associated with the corresponding Data Element defined in the COLUMN__HEADERS record. The number of Data Records in the message is defined by the DATA__ROWS header record. The data values associated with each column Data Element are interpreted based on the Data Element type as defined in the Data Dictionary:

a. Numeric Data Elements: All numeric Data Elements shall be represented by an ASCII string of numeric digits in base ten, plus the decimal point.

b. Text Data Elements: Alphabetic and alphanumeric data elements shall be represented as ASCII strings and encoded using the following rules:

- Text strings that do not contain commas (,) or double quotes ('') shall be accepted both with and without being enclosed by double quotes.
- Text fields with commas (,) or double quotes ('') must be enclosed with double quotes. In addition double quotes within a text field shall be indicated by two double quotes (''').
- The Data Element field length specified in Data Dictionary does not include the additional double quotes necessary to encode text data.

c. Null Data Elements: Null Data Elements shall be represented by two consecutive commas (,,) corresponding to the leading and trailing (if appropriate) Data Element comma separators. Null text strings may optionally be represented by two consecutive double quote characters within the leading and trailing comma separators (i.e., ...,'''', ...).

4.2.7.5 Continuation Records

Continuation records shall be used to indicate that the information in multiple rows (records) is part of one logical record. Continuation records will be indicated through the use of a column header called CONTINUATION__FLAG. This column header is either the first column (if in a response to a query) or second column (if in a response to an input) in all Templates permitting continuation records. The first record shall contain a ''N'' in the CONTINUATION__FLAG column and each following record which is part of a continuation record shall contain a ''Y'' in this column, thus associating the information in that record with the information in the previous record. An ''N'' shall indicate that the record is not a continuation record. Any values corresponding to COLUMN__HEADERs other than those explicitly allowed for a particular Template shall be ignored. However commas must be included to properly align the fields.

4.2.7.6 Error Handling in CSV-Formatted Responses

Validity of each record in the CSV-formatted Response to a Template Input shall be indicated through the use of RECORD__STATUS and ERROR__MESSAGE Data Elements which are included in each data record (row) of the Response.

- If no error was encountered in an Input data record, the RECORD__STATUS Data Element in the corresponding Response record shall be returned with a value of 200 (success), and the ERROR__MESSAGE shall be blank.

• If any error is detected in processing an Input data record, it shall be indicated by a RECORD__STATUS Data Element value other than 200. The ERROR__MESSAGE shall be set to an appropriate text message to indicate the source of the error in that data record.

The overall validity of each Template Query or Input shall be indicated in the CSV-formatted Response via the two REQUEST__STATUS and ERROR__MESSAGE header records (see section 4.2.7.3):

• If no errors were encountered in processing the User's Input data records, the REQUEST__STATUS shall be returned with the value of 200 (success), and the ERROR__MESSAGE shall be blank.

• If any errors were detected in the Template Input data records, the REQUEST__STATUS value shall be any value other than 200, and the ERROR__MESSAGE shall be set to an appropriate text message to indicate the source of the error.

The OASIS Node shall validate all Input records before returning a Response to the User. All valid records shall be processed by the node, while invalid records shall be identified as erroneous through the use of RECORD__STATUS and ERROR__MESSAGE. The User must correct the invalid fields and resubmit only those records which were invalid. If an error is encountered in a record which is part of a set of Continuation records, then all records belonging to that set must be resubmitted.

4.2.8 Registration Information

4.2.8.1 General

As specified in the Information Access Requirements, OASIS Nodes shall provide a mechanism to register Users of the OASIS Node with a Provider. For all levels of access to OASIS information beyond simple read-only access, OASIS Nodes shall provide a mechanism to identify Users of the OASIS at least to the level of their respective Companies. Both Company and User registration information shall be maintained by the OASIS Node.

4.2.8.2 Company Information

OASIS Templates require that certain Company registration information be maintained. As an extension of the Company registration information of the host, domain and port identifiers for dynamic notification of changes in the Customer's purchase requests, a field should be added to the Company's registration information that would define/identify how notification would be delivered to that Company should a transmission or ancillary purchase request be directed to that Company as a Seller of a transmission or ancillary service. The pertinent information would be either a full HTTP protocol URL defining the protocol, host name, port, path, resource, etc. information or a ''mailto:'' URL with the appropriate mailbox address string. On receipt of any purchase request directed to that Company as SELLER via either the ''transrequest'' or ''ancrequest'' templates, or on submission of any change in request STATUS to that Company as SELLER via either the ''transcust'' or ''anccust'' templates, a notification message formatted as documented for the delivery of notification to the Customer, shall be formatted and directed to the Seller. At a minimum, OASIS Nodes shall maintain the following information for each Company:

a. Company Code: 4 character code for primary transmission providers; 6 character code for eligible customers in accordance with NERC Tagging Information System (TIS) requirements shall be maintained for each Company.

b. Default Contact: Unless specified for each individual user affiliated with the Company, default contact information consisting of a phone number, fax number, and e-mail address shall be maintained for each Company.

c. Provider Affiliation: Each eligible Customer shall be obligated to identify to the OASIS TSIP any affiliation with a Transmission Provider whose ''home page'' is on that OASIS Node.

d. Notification URL: For Companies using the URL notification mechanism for delivery of messages on each change of ancillary/transmission reservation STATUS, each Company shall provide the IP host name and port number to be used in delivering notification messages. OASIS Nodes shall have the right to refuse support for notification to any IP ports other than port 80.

4.2.8.3 User Information

With the exception of ''read-only'' (visitor) access, OASIS Nodes shall as a minimum provide a mechanism to identify Users of the Node with at least their Company. However, OASIS Nodes and Providers shall have the right to require full User identification even for visitor accounts.

To support the required OASIS Template Data Elements, OASIS Nodes shall maintain the following information for each registered User:

- Company
- Name
- Phone
- Fax
- E-mail

In the event no additional User identification/registration information is maintained by the OASIS Nodes, all Template Data Elements referring to ''company, name, phone, fax, e-mail'' for either Customers or Sellers shall default to the Contact Information maintained for that User's Company.

4.2.9 Representation of Time

4.2.9.1 General

It is critical that all Users of OASIS Nodes have a clear and unambiguous representation of time associated with all information transferred to/from OASIS Nodes. For this reason, all Data Elements associated with time in OASIS Nodes shall represent ''wall clock'' times, which are NOT to be confused with other common industry conventions such as ''hour ending.'' For the convenience of the User community, OASIS Nodes shall be allowed to accept the input and display of ''time'' in any acceptable form provided such non-standard representations are CLEARLY labeled on the associated HTML screens. Alternate representations of time in CSV formatted messages shall not be allowed.

The following rules shall be implemented in OASIS Nodes for the representation of time on User entries (Query and Input) and output (Response) Templates.

4.2.9.2 Input Time

All time related Data Elements associated with either the Input or Query of Input/Response or Query/Response OASIS Templates shall be validated according the following rules. If the time zone associated with a time Data Element is associated with either Universal Time (UT) or a ''standard'' time zone (e.g., ES, CS, etc.), OASIS Nodes shall accept and apply a fixed hour offset from Universal Time year-round. If the time zone associated with a time Data Element is specified with a ''daylight savings'' time zone (e.g. ED, CD, etc.), OASIS Nodes shall verify that daylight savings time is in effect for the date/time specified.

If daylight savings time (as specified by the time from 2:00am on the first Sunday of April through 2:00 am on the last Sunday of October) is not in effect, the Users input shall be rejected with an error response. If daylight savings time is in effect, the Users input shall be accepted and the appropriate hours offset from Universal Time shall be applied by OASIS Nodes for conversion to

all other time zones. The input of start/stop times for transactions spanning the crossover day between standard and daylight (and vices versa) times must be made either entirely in standard time (valid year-round), or in two different time zones (xS/xD or xD/xS) for the start and stop times, depending on the time of year.

4.2.9.3 Output (Response) Time

The OASIS Node shall return all time Data Elements in the response to Input/Response or Query/Response OASIS Templates based on either the User specified RETURN__TZ header Query Variable or an appropriate OASIS specific default. OASIS Nodes shall interpret RETURN__TZ to specify:

a. The base time zone for conversion of all time Data Elements (e.g. Eastern, Pacific, etc.)

b. Whether daylight savings time is recognized. For example, a RETURN__TZ=ES would return all time Data Elements in Eastern Standard Time year-round. However, a RETURN__TZ=ED would direct OASIS Nodes to return all time Data Elements in Eastern Standard Time (ES) when daylight savings time is not in effect, and then return all time Data Elements in Eastern Daylight Time (ED) when daylight time is in effect.

4.2.10 Transaction Process

4.2.10.1 Purchase Transactions

Customers shall purchase services from the Seller using the following steps (see Exhibit 4–1):

a. The Templates (transrequest and ancrequest) shall be used by a Customer to enter a request for specific transmission services from a specific Seller. The Customer may enter a BID__PRICE which is different from the OFFER__PRICE in order to try to negotiate a lower price. The OASIS Node sets the initial STATUS of the request to QUEUED. The Customer may set the STATUS__NOTIFICATION to indicate that the OASIS Node must notify the Customer on any change of STATUS of transstatus (see Dynamic Notification). Prior to or commensurate with a Seller's setting of a preconfirmed reservation request's STATUS to ACCEPTED (and by implication CONFIRMED), the Seller must set OFFER__PRICE equal to the value of BID__PRICE as established by the Customer on submission of the request.

b. The Templates (transstatus and ancstatus) shall be used by Customers and Sellers to monitor the status of their transactions in progress. These Templates shall also be used by any Users to review the status of any transactions. The NEGOTIATED__PRICE__FLAG data element is set when the Seller agrees to a BID__PRICE (by setting OFFER__PRICE equal to BID__PRICE) that is different from the previously posted price. It will show ''higher'' when OFFER__PRICE is higher than the posted price, and ''lower'' when the OFFER__PRICE is lower than the posted price.

c. The Templates (transsell and ancsell) shall be used by a Seller both to set a new value into STATUS and to negotiate a price by entering a new OFFER__PRICE which is different from the BID__PRICE entered by the Customer in the transrequest Template. During these negotiations, a Reseller shall formally indicate the approval or disapproval of a transaction and indicate which rights from prior confirmed reservations are to be reassigned. A Primary Provider may, but is not required, to enter transaction approval or disapproval using this Template. The valid STATUS values which may be set by a Seller are: RECEIVED, INVALID, STUDY, COUNTEROFFER, ACCEPTED, REFUSED, SUPERSEDED, DECLINED, DISPLACED, ANNULLED, or RETRACTED.

d. The Customer shall use the transstatus and ancstatus Templates to view the Seller's new offer price and/or approval/disapproval decision.

e. After receiving notification of the transaction's STATUS being set to COUNTEROFFER by the Seller, the Templates (transcust and anccust) shall be used by the Customer to modify the BID__PRICE and set the STATUS to REBID. After negotiations are complete (STATUS set to ACCEPTED by the Seller), the Customer shall formally enter the confirmation or withdrawal of the offer to purchase services for the OFFER__PRICE shown in the transstatus Template. The valid STATUS values which a Customer may set are: REBID, CONFIRMED, or WITHDRAWN.

f. The Seller shall use the transstatus (ancstatus) Template to view the Customer's new bid price and/or confirmation/withdrawal decision, again responding through transsell or ancsell if necessary. If the Seller offers to sell a service at an OFFER__PRICE less than that posted in the transoffering (ancoffering) Template, the transoffering (ancoffering) Template must be updated to reflect the new OFFER__PRICE.

g. For deals consummated off the OASIS Nodes by a Seller, after the Customer has accepted the offering, the Templates (transassign and ancassign) may be used by the Seller to notify the Primary Provider of the transfer of rights to the Customer. Continuation records may be used to indicate the reassigning of rights for a ''profile'' of different assignments and different capacities over different time periods.

h. The source of all User and Seller contact information shall be the User registration process. Therefore, it shall not be input as part of uploads, but shall be provided as part of all transaction downloads.

i. OASIS Nodes shall accept a Seller initiated change in STATUS to ACCEPTED only when OFFER__PRICE matches BID__PRICE (i.e., Seller must set OFFER__PRICE equal to BID__PRICE prior to or coincident with setting STATUS to ACCEPTED).

j. OASIS Nodes shall accept a Customer initiated change in STATUS to CONFIRMED only when BID__PRICE matches OFFER__PRICE (i.e., Customer must set BID__PRICE equal to OFFER__PRICE prior to or coincident with setting STATUS to CONFIRMED).

4.2.10.2 Status Values

The possible STATUS values are:

QUEUED=initial status assigned by TSIP on receipt of ''customer services purchase request''.

INVALID=assigned by TSIP or Provider indicating an invalid field in the request, such as improper POR, POD, source, sink, etc. (Final state).

RECEIVED=assigned by Provider or Seller to acknowledge QUEUED requests and indicate the service request is being evaluated, including for completing the required ancillary services.

STUDY=assigned by Provider or Seller to indicate some level of study is required or being performed to evaluate service request.

REFUSED=assigned by Provider or Seller to indicate service request has been denied due to availability of transmission capability. SELLER__COMMENTS should be used to communicate details for denial of service. (Final state).

COUNTEROFFER=assigned by Provider or Seller to indicate that a new OFFER__PRICE is being proposed.

REBID = assigned by Customer to indicate that a new BID__PRICE is being proposed.

SUPERSEDED = assigned by Provider or Seller when a request which has not yet been confirmed is displaced by another reservation request. (Final state).

ACCEPTED = assigned by Provider or Seller to indicate the service request at the designated OFFER__PRICE has been approved/accepted. If the reservation request was submitted PRECONFIRMED, the OASIS Node shall immediately set the reservation status to CONFIRMED. Depending upon the type of ancillary services required, the Seller may or may not require all ancillary service reservations to be completed before accepting a request.

DECLINED = assigned by Provider or Seller to indicate that the BID__PRICE is unacceptable and that negotiations are terminated. SELLER__COMMENTS should be used to communicate reason for denial of service. (Final state).

CONFIRMED = assigned by Customer in response to Provider or Seller posting ''ACCEPTED'' status, to confirm service. Once a request has been ''CONFIRMED'', a transmission service reservation exists. (Final state, unless overridden by DISPLACED or ANNULLED state).

WITHDRAWN = assigned by Customer at any point in request evaluation to withdraw the request from any further action. (Final state).

DISPLACED = assigned by Provider or Seller when a ''CONFIRMED'' reservation from a Customer is displaced by a longer term reservation and the Customer has exercised right of first refusal (i.e. refused to match terms of new request). (Final state).

ANNULLED = assigned by Provider or Seller when, by mutual agreement with the Customer, a confirmed reservation is to be voided. (Final state).

RETRACTED = assigned by Provider or Seller when the Customer fails to confirm or withdraw the request within the required time period. (Final state).

The following diagram can be used as a business process guideline; however, individual tariffs will dictate specific allowed actions between states.

BILLING CODE 6717–01–P

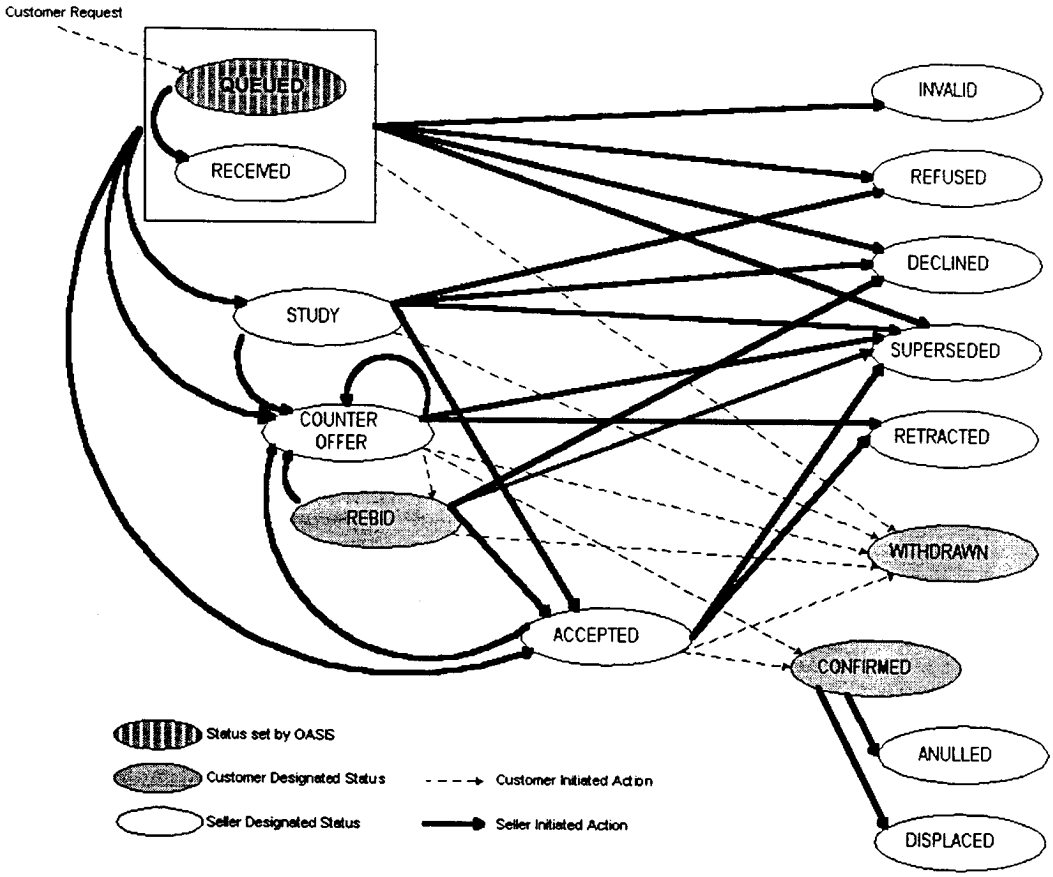


Exhibit 4-1 - State Diagram of Purchase Transactions

BILLING CODE 6717–01–C

4.2.10.3 Dynamic Notification

Customers may specify the delivery of dynamic notification messages on each change in STATUS of an ancillary or transmission service reservation. OASIS Nodes shall support the delivery of dynamic notification messages through either the HTTP protocol or by electronic mail. The selection of which mechanism is used and the contents of the messages delivered to the client program or e-mail address is defined by the content of the STATUS__NOTIFICATION data element as described in the next subsections.

Regardless of whether this dynamic notification method is used or not, it shall still remain the User's responsibility to get the desired information, possibly through the use of a periodic ''integrity request''. OASIS Nodes shall not be obligated or liable to guarantee delivery/receipt of messages via the STATUS__NOTIFICATION mechanism other than on a ''best effort'' basis.

As an extension of the Company registration information of the host, domain and port identifiers for dynamic notification of changes in the Customer's purchase requests, a field should be added to the Company's registration information that would define/identify how notification would be delivered to that Company should a transmission or ancillary purchase request be directed to that Company as a Seller of a transmission or ancillary service. The pertinent information would be either a full HTTP protocol URL defining the protocol, host name, port, path, resource, etc. information or a ''mailto:'' URL with the appropriate mailbox address string. On receipt of any purchase request directed to that Company as SELLER via either the ''transrequest'' or ''ancrequest'' templates, or on submission of any change in request STATUS to that Company as SELLER via either the ''transcust'' or ''anccust'' templates, a notification message formatted as documented for the delivery of notification to the Customer, shall be formatted and directed to the Seller. This extension of dynamic notification is required only where the Transmission Provider has programmed its computer system for its own notification.

4.2.10.3.1 HTTP Notification

OASIS Nodes shall deliver dynamic notification to a client system based on HTTP URL information supplied in part by the STATUS__NOTIFICATION data element and by information supplied as part of the Customer's Company registration information. HTTP URL's are formed by the concatenation of a protocol field (i.e., http:), a domain name (e.g., //www.tsin.com), a port designation (e.g., :80), and resource location information.

The STATUS__NOTIFICATION data element shall contain the protocol field ''http:'', which designates the notification method/protocol to be used, followed by all resource location information required; the target domain name and port designations shall be inserted into the notification URL based on the Customer's Company registration information. The resource location information may include directory information, cgi script identifiers and URL encoded query string name/value pairs as required by the Customer's application. An OASIS Node performs no processing on the resource location information other than to include it verbatim along with the protocol, domain name and port information when forming the URL that will be used to deliver the HTTP protocol notification message.

For example, Company XYZ has established the domain name and port designations of ''//oasistc.xyz.com:80'' as part of their registration information.

When a transmission reservation is submitted by one of Company XYZ's users (the Customer), and includes a STATUS__NOTIFICATION data element with the value of ''http:/cgi-bin/status?DEAL__REF=8&REQUEST__REF=173'', an OASIS Node shall deliver an HTTP notification message using the URL: http://oasistc.xyz.com:80/cgi-bin/status?DEAL__REF=8&REQUEST__REF=173

If the STATUS__NOTIFICATION field contained only the ''http:'' protocol designation, the notification message would be delivered using the URL: http://oasistc.xyz.com:80

The contents of the HTTP protocol notification message delivered by an OASIS Node shall consist of the complete URL created by combining fields from the STATUS__NOTIFICATION data element and Company registration information as part of an HTTP POST method request. In addition to the POST method HTTP header record, OASIS Nodes shall also append the CSV formatted output of the transstatus template information for that particular reservation using the standard Content-type: text/x-oasis-csv and appropriate Content-length: HTTP header records. OASIS Nodes shall use a Primary Provider specific default value for RETURN__TZ in formulating the transstatus response information.

Continuing with the previous example, the important records in the HTTP notification message that would be delivered to Company XYZ for the transmission reservation request submitted to Primary Provider ABC and given an ASSIGNMENT__REF of 245 would be,

```
POST http://oasistc.xyz.com:80/cgi-bin/status?DEAL__REF=8&REQUEST__REF=173 HTTP/1.0
Content-type: text/x-oasis-csv
Content-length: <byte count of remainder of message>
REQUEST__STATUS=200
TIME__STAMP=<appropriate value>
VERSION=1.3
TEMPLATE=transstatus
OUTPUT__FORMAT=DATA
PRIMARY__PROVIDER__CODE=ABC
PRIMARY__PROVIDER__DUNS=123456789
RETURN__TZ=<appropriate value for ABC>
DATA__ROWS=1
COLUMN__HEADERS=CONTINUATION__FLAG, ASSIGNMENT__REF, . . .
N, 245, . . .
```

In the event an error is encountered delivering the HTTP notification message to the target URL as indicated by a failure of the target system to respond, or return of HTTP response status of 408, 500, 503, or 504, OASIS Nodes shall retry up to two more times, once every 5 minutes.

4.2.10.3.2 E-mail Notification

OASIS Nodes shall deliver dynamic notification to an e-mail address based on Mailto: URL information specified in the STATUS__NOTIFICATION data element. Mailto: URL's consist of the ''mailto:'' protocol identifier and an Internet mail address to which the notification message should be sent.

The STATUS__NOTIFICATION data element shall contain the protocol field ''mailto:'', which designates the notification method/protocol to be used, followed by an Internet mail address in conformance with RFC 822. OASIS Nodes shall send an e-mail message to the Internet mail address containing the following information: ''To:'' set to the mail address from the STATUS__NOTIFICATION data element, ''From:'' set to an appropriate mail address of the OASIS Node, ''Subject:'' shall be the transstatus template name followed by the value of the ASSIGNMENT__REF data element and the current value for the STATUS data element associated with the reservation (e.g., ''Subject: transstatus 245 ACCEPTED''), and the body of the message shall contain the CSV formatted output of the transstatus template information for that particular reservation. OASIS Nodes shall use a Primary Provider specific default value for RETURN__TZ in formulating the transstatus response information.

4.2.11 Reference Identifiers

The TSIP shall assign a unique reference identifier, ASSIGNMENT__REF, for each Customer request to purchase capacity or services. The value of ASSIGNMENT__REF may be used to imply the order in which the request was received by the TSIP. This identifier

will be used to track the request through various stages, and will be kept with the service through out its life. Whenever the service is resold, a new ASSIGNMENT__REF number is assigned, but previous ASSIGNMENT__REF numbers are also kept so that a chain of all transactions related to the service can be maintained.

The TSIP shall assign a unique reference identifier, POSTING__REF, to each Seller's offerings of service for sale or other information (messages) posted on an OASIS Node. This identifier shall be referenced by the Seller in any/all subsequent template submissions which would result in a modification to or deletion of that specific offering or message. Optionally, Customers may also refer to this POSTING__REF in their subsequent purchase requests to aid in identifying the specific offering associated with the purchase request.

Sellers may aggregate portions of several previous transmission service reservations to create a new offering to be posted on an OASIS Node. When all or a portion of such offerings are sold, the Seller (original Customer) is obligated to notify the Primary Provider of the sale/assignment by inserting appropriate reassignment information on the OASIS Node (via the transsell or transassign templates) or by some other approved method. This reassignment information consists of the ASSIGNMENT__REF value assigned to the original reservation(s) and the time interval and capacity amount(s) being reassigned to the new reservation. These values are retained in the REASSIGNED__REF, REASSIGNED__START__TIME, REASSIGNED__STOP__TIME, and REASSIGNED__CAPACITY data elements.

Sellers may identify their service offerings received from Customers through the Seller supplied value specified for the SALE__REF data element.

Customers may track their purchase requests through the Customer supplied values specified for the DEAL__REF and REQUEST__REF data elements. Customers may also use POSTING__REF and SALE__REF in their purchase requests to refer back to posted offerings.

4.2.12 Linking of Ancillary Services to Transmission Services

The requirements related to ancillary services are shown in transoffering (and updated using transupdate) using the ANC__SVC__REQ data element containing the following permitted values: SC:x; RV:x; RF:x; EI:x; SP:x; SU:x;

Where SC, RV, RF, EI, SP and SU are the ancillary services 1 through 6 described in the Proforma Tariff,

- SC—Scheduling, system Control and dispatch
- RV—Reactive supply and Voltage control
- RF—Regulation and Frequency response
- EI—Energy Imbalance
- SP—SPinning reserve
- SU—SUpplemental reserve

and where x={M,R,O,U} means one of the following:

- *M*andatory, which implies that the Primary Provider must provide the ancillary service
- *R*equired, which implies that the ancillary service is required, but not necessarily from the Primary Provider
- *O*ptional, which implies that the ancillary service is not necessarily required, but could be provided
- *U*nknown, which implies that the requirements for the ancillary service are not known at this time

Ancillary services may be requested by a User from the Provider at the same time as transmission services are requested via the transrequest template, by entering the special codes into ANC__SVC__LINK to represent the Proforma ancillary services 1 through 6 (or more) as follows:

SC:(AA); RV: (AA); RF: (AA[:xxx[:yyy[:nnn]]]); EI: (AA[:xxx[:yyy[:nnn]]]); SP: (AA[:xxx[:yyy[:nnn]]]); SU: (AA[:xxx[:yyy[:nnn]]]); {Registered}:(AA[:xxx[:yyy[:nnn]]])

Where AA is the appropriate PRIMARY__PROVIDER__CODE, SELLER__CODE, or CUSTOMER__CODE, and represents the company providing the ancillary services. ''AA'' may be unspecified for ''xxx'' type identical to ''FT'', in which case the '':'' character must be present and precede the ''FT'' type.

If multiple ''AA'' terms are necessary, then each ''AA'' grouping will be enclosed within parenthesis, with the overall group subordinate to the ANC__SVC__TYPE specified within parenthesis.

And where xxx represents either:

—''FT'' to indicate that the Customer will determine ancillary services at a future time, or
—''SP'' to indicate that the Customer will self-provide the ancillary services, or
—''RQ'' to indicate that the Customer is asking the OASIS Node to initiate the process for making an ancillary services reservation with the indicated Provider or Seller on behalf of the Customer. The Customer must then continue the reservation process with the Provider or Seller. If the transmission services request is for preconfirmed service, then the ancillary services shall also be preconfirmed, or
—''AR'' to indicate an assignment reference number sequence follows.

The terms ''yyy'' and ''nnn'' are subordinate to the xxx type of ''AR''. yyy represents the ancillary services reservation number (ASSIGMNENT__REF) and nnn represents the capacity of the reserved ancillary services. Square brackets are used to indicated optional elements and are not used in the actual linkage itself. Specifically, the :yyy is applicable to only the ''AR'' term and the :nnn may optionally be left off if the capacity of ancillary services is the same as for the transmission services, and optionally multiple ancillary reservations may be indicated by additional (xxx[:yyy[:nnn]]) enclosed within parenthesis. If no capacity amount is indicated, the required capacity is assumed to come from the ancillary reservations in the order indicated in the codes, on an ''as-needed'' basis.

Examples

Example 1

Assume ancillary services SC and RV are mandatory from the TP, whose code is ''TPEL'', and ancillary services RF, EI, SP and SU are required, but will be defined at a future time.

''SC: (TPEL:RQ); RV: (TPEL:RQ); RF:(:FT); EI:(:FT); SP:(:FT); SU:(:FT)'';

Example 2

Assume ancillary services SC and RV are mandatory from the TP, whose code is ''TPEL'', and RF, EI, SP and SU are self-supplied. The customer code is ''CPSE''

''SC: (TPEL:RQ); RV: (TPEL:RQ); RF:(CPSE:SP); EI:(CPSE:SP); SP:(CPSE:SP); SU:(CPSE:SP)''

Example 3

Assume ancillary services SC and RV are mandatory from the TP, whose code is ''TPEL'', and ancillary services RF, EI, SP and SU were purchased via a prior OASIS reservation from seller ''SANC'' whose reservation number was ''39843''. There is sufficient capacity within the Ancillary reservation to handle this Transmission reservation.

''SC:(TPEL:RQ); RV:(TPEL:RQ); RF:(SANC:AR:39843); EI:(SANC:AR:39843) SP:(SANC:AR:39843); SU:(SANC:AR:39843)''

Example 4

Assume ancillary services SC and RV are mandatory from the TP, whose code is ''TPEL'', and ancillary services RF, EI, SP and SU were purchased via prior OASIS reservations from sellers ''SANC'' and ''TANC'', whose reservation numbers where ''8763'' and ''9824'' respectively. There is not sufficient capacity within the Ancillary reservation from seller ''SANC'' to handle this Transmission reservation. In this case the OASIS reservation number 8763 will be depleted for the time frame specified within the transmission reservation and the remaining required amount will come from reservation number ''9824''.

''SC:(TPEL:RQ); RV:(TPEL:RQ); RF:((SANC:AR:8763)(TANC:AR:9824));
EI:((SANC:AR:8763)(TANC:AR:9824)); SP:((SANC:AR:8763)(TANC:AR:9824));
SU:((SANC:AR:8763)(TANC:AR:9824))''

Example 5

Assume a transmission reservation in the amount of 100 mw/hour for a period of one day is made. Ancillary services SC and RV are mandatory from the TP, whose code is ''TPEL'', and ancillary services RF, EI, SP and SU were purchased via prior OASIS reservations from sellers ''SANC'' and ''TANC'', whose reservation numbers where ''8763'' and ''9824'' respectively. There is sufficient capacity within the Ancillary reservation from seller ''SANC'' to handle this Transmission reservation, however the purchaser wishes to use only ''40 mw's'' from this seller. In this case the OASIS reservation number 8763 will be depleted in the amount of ''40 mw's'' for the time frame specified within the transmission reservation and the remaining required amount will come from reservation number ''9824''.

''SC:(TPEL:RQ); RV:(TPEL:RQ); RF:((SANC:AR:8763:40)(TANC:AR:9824));
EI:((SANC:AR:8763:40)(TANC:AR:9824));SP:((SANC:AR:8763:40)(TANC:AR:9824));
SU:((SANC:AR:8763:40)(TANC:AR:9824))''

4.3 Template Descriptions

The following OASIS Templates define the Data Elements in fixed number and sequence which must be provided for all data transfers to and from the OASIS Nodes. The definitions of the data elements are listed in the Data Element Dictionary in Appendix A.

TSIPs must provide a more detailed supplemental definition of the list of Sellers, Paths, Point of Receipt (POR), Point of Delivery (POD), Capacity Types, Ancillary Service Types and Templates on-line, clarifying how the terms are being used (see LIST Template). If POR and POD are not used, then Path Name must include directionality.

Many of the Templates represent query-response interactions between the User and the OASIS Node. These interactions are indicated by the ''Query'' and ''Response'' section respectively of each Template. Some, as noted in their descriptions, are Input information, sent from the User to the OASIS Node. The Response is generally a mirror of the Input, although in some Templates, the TSIP must add some information.

4.3.1 Template Summary

The following table provides a summary of the process areas, and Templates to be used by Users to query information that will be downloaded or to upload information to the Primary Providers. These processes define the functions that must be supported by an OASIS Node.

Process area	Process name	Template(s)
4.3.2 Query/Response of Posted Services Being Offered	Query/Response Transmission Capacity Offerings	transoffering
	Query/Response Ancillary Service Offerings	ancoffering
4.3.3 Query/Response of Services Information	Query/Response Transmission Services	transserv
	Query/Response Ancillary Services	ancserv
4.3.4 Query/Response of Schedules and Curtailments	Query/Response Transmission Schedules	schedule
	Query/Response Curtailments	curtail
4.3.5 Query/Response of Lists of Information	Query/Response List of Sellers, Paths, PORs, PODs, Capacity Types, Ancillary Service Types, Templates.	list
4.3.6 Query/Response of Audit Log	Query/Response Audit Log	auditlog
4.3.7 Purchase	Request Purchase of Transmission	transrequest
Transmission Services	Services (Input)	
	Query/Response Status of Transmission Service Request	transstatus
	Seller Approves Purchase (Input)	transsell
	Customer Confirm/Withdraw Purchase of Transmission Service (Input).	transcust
	Alternate POD/POR	transalt
	Seller Reassign Rights (Input)	transassign
4.3.8 Seller Posting of Transmission Service	Seller Post Transmission Service for Sale (Input)	transpost
	Seller Modify (Remove) Transmission Service for Sale (Input).	transupdate
4.3.9 Purchase of Ancillary Service	Request Purchase of Ancillary Service (Input)	ancrequest
	Query/Response Status of Ancillary Service Request	ancstatus
	Seller Approves Purchase of Ancillary Service (Input)	ancsell
	Customer Accept/Withdraw Purchase of Ancillary Service (Input).	anccust
	Seller Reassign Rights (Input)	ancassign
4.3.10 Seller Post Ancillary Service	Seller Post Ancillary Service (Input)	ancpost
	Seller Modify (Remove) Ancillary Service for Sale (Input)	ancupdate
4.3.11 Informal Messages	Post Want Ads (Input)	messagepost
	Query/Response Want Ads	message
	Delete Want Ad (Input)	messagedelete
	Personnel Transfers	personnel
	Discretion	discretion
	Standards of Conduct	stdconduct

4.3.2 Query/Response of Posted Services Being Offered

The following Templates define the information to be posted on services offered for sale. All discounts for service negotiated by a Customer and Primary Provider (as Seller) at a price less than the currently posted offering price shall be posted on OASIS Nodes in such a manner as to be viewed using these Templates. All secondary market and/or third-party posting and Primary Provider offerings for like services shall also be viewed using these templates.

The Query must start with the standard header Query Variable Data Elements, listed in Section 4.2.6.2, and may include any valid combination of the remaining Query Variables, shown below in the Templates. START__TIME and STOP__TIME is the requested time interval for the Response to show all offerings which intersect that interval (see Section 4.2.6.6). TIME__OF__LAST__UPDATE can be used to specify all services updated since a specific point in time.

Query variable listed with an asterisk (*) can have at least 4 multiple instances defined by the user in making the query.

In the Response, OFFER__START__TIME and OFFER__STOP__TIME indicate the ''request time window'' within which a customer must request a service in order to get the posted OFFER__PRICE. START__TIME and STOP__TIME indicate the time frame that the service is being offered for.

The SERVICE__DESCRIPTION data element shall define any attributes and/or special terms and conditions applicable to the offering that are not listed under the standard SERVICE__DESCRIPTION associated with the product definition supplied in the *transserv* or *ancserv* templates.

SERVICE__DESCRIPTION shall be null if there are no unique attributes or terms associated with the offering.

4.3.2.1 Transmission Capacity Offerings Available for Purchase (transoffering)

Transmission Services Offerings Available for Purchase (transoffering) is used to offer transmission services that are posted for sale by the Primary Provider or Resellers. At a minimum this Template must be used to post TTC and each increment and type of service required by applicable regulations and the Primary Provider's tariffs.

This Template must include, for each posted path, the Primary Provider's TTC, firm ATC and non-firm ATC, as required by FERC orders 888 and 889 (plus revisions) and/or if provided in the Primary Provider's tariff. Additional transmission services may be offered with the same Template.

The POSTING__REF is set by the TSIP when an offering is posted and can be used in *transrequests* to refer to a particular offering.

A User may query information about services available from all sellers for the time frame specified by the SERVICE__INCREMENT data element, namely, hourly, daily, weekly, monthly, or yearly.

Template: transoffering

1. Query

PATH__NAME*
SELLER__CODE*
SELLER__DUNS*
POINT__OF__RECEIPT*
POINT__OF__DELIVERY*
SERVICE__INCREMENT*
TS__CLASS*
TS__TYPE*
TS__PERIOD*
START__TIME (of transmission services)
STOP__TIME (of transmission services)
POSTING__REF
TIME__OF__LAST__UPDATE

2. Response

The response is one or more records showing the requested service information. Note that the Customer will receive as a series of records spanning all the SELLER__CODEs, PATH__NAMEs, PORs, PODs, TS__xxx, and the START__TIME/STOP__TIME specified in the query. The SALE__REF is a value provided by the SELLER to identify the transmission service product being sold. The ANC__SVC__REQ indicates all ancillary services required for the specified transmission services. All Template elements are defined in the Data Element Dictionary.

TIME__OF__LAST__UPDATE
SELLER__CODE
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
INTERFACE__TYPE
OFFER__START__TIME
OFFER__STOP__TIME
START__TIME
STOP__TIME
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
ANC__SVC__REQ
SALE__REF
POSTING__REF
CEILING__PRICE
OFFER__PRICE
PRICE__UNITS
SERVICE__DESCRIPTION (if null, then look at *transserv*)
NERC__CURTAILMENT__PRIORITY
OTHER__CURTAILMENT__PRIORITY
SELLER__NAME
SELLER__PHONE

SELLER__FAX
SELLER__EMAIL
SELLER__COMMENTS

4.3.2.2 Ancillary Services Available for Purchase (ancoffering)

Ancillary Services Available for Purchase *(ancoffering)* is used to provide information regarding the ancillary services that are available for sale by all sellers (both Primary Provider and Third Party Sellers).

Template: ancoffering

1. Query

SELLER__CODE*
SELLER__DUNS*
CONTROL__AREA*
SERVICE__INCREMENT*
ANC__SERVICE__TYPE*
START__TIME
STOP__TIME
POSTING__REF
TIME__OF__LAST__UPDATE

2. Response

TIME__OF__LAST__UPDATE
SELLER__CODE
SELLER__DUNS
CONTROL__AREA
OFFER__START__TIME
OFFER__STOP__TIME
START__TIME
STOP__TIME
CAPACITY
SERVICE__INCREMENT
ANC__SERVICE__TYPE
SALE__REF
POSTING__REF
CEILING__PRICE
OFFER__PRICE
PRICE__UNITS
SERVICE__DESCRIPTION (if blank, then look at *ancserv*)
SELLER__NAME
SELLER__PHONE
SELLER__FAX
SELLER__EMAIL
SELLER__COMMENTS

4.3.3 Query/Response of Services Information

4.3.3.1 Transmission Services (transserv)

Transmission Services (*transserv*) is used to provide additional information regarding the transmission services SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS, TS__WINDOW, NERC__CURTAILMENT__PRIORITY, and OTHER__CURTAILMENT__PRIORITY that are available for sale by a Provider in the Templates in Section 4.3.2. This Template is used to summarize Provider tariff information for the convenience of the User. The Provider also sets PRICE__UNITS with this Template.

Template: transserv

1. Query

TIME__OF__LAST__UPDATE

2. Response

TIME__OF__LAST__UPDATE
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
CEILING__PRICE
PRICE__UNITS
SERVICE__DESCRIPTION
NERC__CURTAILMENT__PRIORITY
OTHER__CURTAILMENT__PRIORITY
TARIFF__REFERENCE

4.3.3.2 Ancillary Services (ancserv)

Ancillary Services (*ancserv*) is used to provide additional information regarding the ancillary services that are available for sale by a Provider in the Templates in Section 4.3.2. This Template is used to summarize Provider tariff information for the convenience of the User. The Provider also sets PRICE__UNITS with this Template.

Template: ancserv

1. Query

TIME__OF__LAST__UPDATE

2. Response

TIME__OF__LAST__UPDATE

SERVICE__INCREMENT
ANC__SERVICE__TYPE
CEILING__PRICE
PRICE__UNITS
SERVICE__DESCRIPTION
TARIFF__REFERENCE

4.3.4 Query/Response of Schedules and Curtailments

4.3.4.1 Hourly Schedule (schedule)

Hourly Schedule (*schedule*) is used to show what a Provider's scheduled transmission capacity usage actually was for specific Paths. All the information provided is derived from that in the transmission reservation (see Template *transstatus*), except CAPACITY__SCHEDULED, which is the amount of the reservation which was scheduled. Posting of the schedules is organized around the transmission reservations, not the energy schedules. This may require the Primary Provider to map schedules back to the reservation. These records would have to be created for all reservations/schedules done off the OASIS Node during the operations scheduling period.

Template: schedule

1. Query

PATH__NAME*
SELLER__CODE*
SELLER__DUNS*
CUSTOMER__CODE*
CUSTOMER__DUNS*
POINT__OF__RECEIPT*
POINT__OF__DELIVERY*
SERVICE__INCREMENT*
TS__CLASS*
TS__TYPE*
TS__PERIOD*
START__TIME
STOP__TIME
TIME__OF__LAST__UPDATE
ASSIGNMENT__REF

2. Response

TIME__OF__LAST__UPDATE
SELLER__CODE
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
CUSTOMER__CODE
CUSTOMER__DUNS
AFFILIATE__FLAG
START__TIME (start time of schedule)
STOP__TIME (stop time of schedule)
CAPACITY (reserved)
CAPACITY__SCHEDULED (total of energy scheduled for this customer for this reservation for this hour)
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
NERC__CURTAILMENT__PRIORITY
OTHER__CURTAILMENT__PRIORITY
ASSIGNMENT__REF (Last rights holder)

4.3.4.2 Curtailment/Interruption (curtail)

CURTAILMENT/INTERRUPTION (*curtail*) provides additional information about the actual curtailment of transmission reservations that have been scheduled for energy exchange. All fields are derived from the reservation except the CAPACITY__CURTAILED, CURTAILMENT__REASON and CURTAILMENT__OPTIONS. These fields provide information on the reasons for the curtailment, procedures to be followed and options for the Customer, if any, to relieve the curtailment.

Template: curtail

1. Query
PATH__NAME*
SELLER__CODE*
SELLER__DUNS*
CUSTOMER__CODE*
CUSTOMER__DUNS*
POINT__OF__RECEIPT*
POINT__OF__DELIVERY*
SERVICE__INCREMENT*
TS__CLASS*
TS__TYPE*
TS__PERIOD*
START__TIME
STOP__TIME
TIME__OF__LAST__UPDATE
ASSIGNMENT__REF

2. Response

TIME__OF__LAST__UPDATE

SELLER__CODE
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
CUSTOMER__CODE
CUSTOMER__DUNS
AFFILIATE__FLAG
START__TIME (Start time of curtailment)
STOP__TIME (Stop time of curtailment)
CAPACITY (Capacity reserved)
CAPACITY__SCHEDULED
CAPACITY__CURTAILED
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
NERC__CURTAILMENT__PRIORITY
OTHER__CURTAILMENT__PRIORITY
CURTAILMENT__REASON
CURTAILMENT__PROCEDURES
CURTAILMENT__OPTIONS
ASSIGNMENT__REF

4.3.5 Query/Response of Lists of Information

4.3.5.1 List (list)

LIST (*list*) is used to provide lists of valid names. The minimum set of lists is LIST, SELLER__CODE, PATH__NAME, POINT__OF__RECEIPT, POINT__OF__DELIVERY, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS, TS__WINDOW, NERC__CURTAILMENT__PRIORITY, OTHER__CURTAILMENT__PRIORITY, ANC__SERVICE__TYPE, CATEGORY, and TEMPLATE. These names may be used to query information, post or request services.

Template: list

1. Query

LIST__NAME
TIME__OF__LAST__UPDATE

2. Response

TIME__OF__LAST__UPDATE
LIST__NAME
LIST__ITEM
LIST__ITEM__DESCRIPTION

4.3.6 Query/Response to Obtain the Audit log

4.3.6.1 Audit Log Information (auditlog)

AUDIT LOG INFORMATION (*auditlog*) is used to provide a means of accessing the required audit information. The TSIP will maintain two types of logs:

a. **LOG OF ALL CHANGES** to posted TS Information, such as CAPACITY. This log will record as a minimum the time of the change, the Template name, the name of the Template data element changed and the old and new values of the Template data element.

b. **A COMPLETE RECORD OF ALL TRANSACTION EVENTS**, such as those contained in the Templates 4.3.8, 4.3.9 and 4.3.10. For transaction event logs, the response will include: TIME__STAMP, TEMPLATE, ELEMENT__NAME, AND NEW__DATA. In this case the value of OLD__DATA in not applicable.

Template: auditlog

1. Query

START__TIME (search against audit log)
STOP__TIME (search against audit log)

2. Response

ASSIGNMENT__REF or POSTING__REF
TIME__STAMP
TEMPLATE
ELEMENT__NAME (for data elements whose values have changed)
OLD__DATA
NEW__DATA

4.3.7 Purchase Transmission Services

The following Templates shall be used by Customers and Sellers to transact purchases of services.

4.3.7.1 Customer Capacity Purchase Request (transrequest)

The **CUSTOMER CAPACITY PURCHASE REQUEST** (Input) (*transrequest*) is used by the Customer to request the purchase of transmission services. The response simply acknowledges that the Customer's request was received by the OASIS Node. It does not imply that the Seller has received the request. Inputting values into the reference Data Elements is optional.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Supporting ''profiles'' of service, which request different capacities (and optionally price) for different time periods within a single request, is at the discretion of the Primary Provider. Continuation records may be used to indicate requests for these service profiles. Each segment of a profile is represented by the data elements CAPACITY, START__TIME, and STOP__TIME, which define the intervals

in time overwhich a non-zero MW demand is being requested. The initial segment of a profile is defined by the CAPACITY, START__TIME and STOP__TIME data elements specified in the first/only record submitted; subsequent segments are specified in continuation records each containing the appropriate CAPACITY, START__TIME and STOP__TIME values defining the segment. Provider's may optionally support price negotiation on segments of a profiled reservation request. In this case, the BID__PRICE data element is also included in each continuation record. If the BID__PRICE data element is not specified in the continuation records, the BID__PRICE specified in the first/only record submitted will be applied to the entire reservation request.

For requesting transmission services which include multiple paths, only the following fields may be redefined in a continuation record for the transrequest Template: PATH__NAME. Supporting multiple paths is at the discretion of the Provider.

The START__TIME and STOP__TIME indicate the requested period of service.

When the request is received at the OASIS Node, the TSIP assigns a unique ASSIGNMENT__REF value and queues the request with a time stamp. The STATUS for the request is QUEUED.

Specification of a value YES in the PRECONFIRMED field authorizes the TSIP to automatically change the STATUS field in the transstatus Template to CONFIRMED when that request is ACCEPTED by the Seller.

Template: transrequest

1. Input

CONTINUATION__FLAG
SELLER__CODE (Primary or Reseller)
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
STATUS__NOTIFICATION
START__TIME
STOP__TIME
BID__PRICE
PRECONFIRMED
ANC__SVC__LINK
POSTING__REF (Optionally set by Customer)
SALE__REF (Optionally set by Customer)
REQUEST__REF (Optionally set by Customer)
DEAL__REF (Optionally set by Customer)
CUSTOMER__COMMENTS

2. Response (acknowledgment)

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF (assigned by TSIP)
SELLER__CODE
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
STATUS__NOTIFICATION
START__TIME
STOP__TIME
BID__PRICE
PRECONFIRMED
ANC__SVC__LINK
POSTING__REF
SALE__REF
REQUEST__REF
DEAL__REF
CUSTOMER__COMMENTS
ERROR__MESSAGE

4.3.7.2 Status of Customer Purchase Request (transstatus)

The Status of Customer Purchase Request (transstatus) is provided upon the request of any Customer or Provider to indicate the current status of one or more reservation records. Users may also view any transaction's status. However, the SOURCE and SINK may be masked for User requests until Transmission Providers must make source and sink information available at the time the request status posting is updated to show that a transmission request is confirmed.

Continuation records may be returned in association with a transmission reservation to convey information regarding: 1) sale or assignment of transmission rights on the secondary market (reassignments), 2) profiled requests, or 3) service over multiple paths. When a transmission reservation request is the result of a sale or assignment of transmission rights on the secondary market, the

identity of the original reservation, capacity, and time interval over which rights are assigned to the new reservation are defined by the data elements REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME. These data elements will be returned in continuation records when more than one set of reassignment information is associated with a reservation. If the reservation has an associated profile (support for reservation profiles is at the discretion of the Provider), CAPACITY, START__TIME and STOP__TIME for the segments of the profile will be returned in continuation records. If the Provider supports negotiation of price on each segment of a profiled request, BID__PRICE and OFFER__PRICE will also be returned with CAPACITY, START__TIME and STOP__TIME. If the Provider supports reservations submitted on multiple paths, multiple PATH__NAMEs associated with the reservation would be returned in continuation records.

The AFFILIATE__FLAG will be set by the TSIP to indicate whether or not the Customer is an affiliate of the Primary Provider. The NEGOTIATED__PRICE__FLAG will be set by the TSIP to indicate whether the OFFER__PRICE is higher, lower, or the same as the BID__PRICE.

Template: transstatus

1. Query

SELLER__CODE*
SELLER__DUNS*
CUSTOMER__CODE*
CUSTOMER__DUNS*
PATH__NAME*
POINT__OF__RECEIPT*
POINT__OF__DELIVERY*
SERVICE__INCREMENT*
TS__CLASS*
TS__TYPE*
TS__PERIOD*
STATUS*
START__TIME (Beginning time of service)
STOP__TIME
START__TIME__QUEUED (Beginning time queue)
STOP__TIME__QUEUED
NEGOTIATED__PRICE__FLAG
ASSIGNMENT__REF
REASSIGNED__REF
SALE__REF
REQUEST__REF
DEAL__REF
TIME__OF__LAST__UPDATE

2. Response

CONTINUATION__FLAG
ASSIGNMENT__REF
SELLER__CODE
SELLER__DUNS
CUSTOMER__CODE
CUSTOMER__DUNS
AFFILIATE__FLAG (Set by TSIP)
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
CAPACITY (total reservation)
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
NERC__CURTAILMENT__PRIORITY
OTHER__CURTAILMENT__PRIORITY
START__TIME
STOP__TIME
CEILING__PRICE
OFFER__PRICE
BID__PRICE
PRICE__UNITS
PRECONFIRMED
ANC__SVC__LINK
ANC__SVC__REQ
POSTING__REF
SALE__REF
REQUEST__REF
DEAL__REF
NEGOTIATED__PRICE__FLAG (''L'' if Seller accepted Price is lower than OFFER__PRICE in transoffering Template; ''H'' if higher; otherwise blank)
STATUS=RECEIVED, QUEUED, INVALID, STUDY, REBID, COUNTEROFFER, ACCEPTED, DECLINED, SUPERSEDED, REFUSED, CONFIRMED, WITHDRAWN, DISPLACED, ANNULLED, RETRACTED
STATUS__NOTIFICATION
STATUS__COMMENTS
TIME__QUEUED
RESPONSE__TIME__LIMIT
TIME__OF__LAST__UPDATE
PRIMARY__PROVIDER__COMMENTS

SELLER__COMMENTS
CUSTOMER__COMMENTS
SELLER__NAME
SELLER__PHONE
SELLER__FAX
SELLER__EMAIL
CUSTOMER__NAME
CUSTOMER__PHONE
CUSTOMER__FAX
CUSTOMER__EMAIL
REASSIGNED__REF
REASSIGNED__CAPACITY (Capacity from each previous transaction)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME

4.3.7.3 Seller Approval of Purchase (transsell)

Seller Approval of Purchase (Input) (*transsell*) is input by a Seller to modify the status and queue of a request by a Customer.

The following fields may be submitted in continuation records for the transsell Template to convey transmission rights from multiple original transmission reservations to this new reservation: REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME. If the Provider/Seller supports the negotiation of price on individual segments of a profiled reservation request (support for reservation profiles is at the discretion of the Provider), OFFER__PRICE, START__TIME and STOP__TIME data elements may be submitted in continuation records to modify the Seller's offer price associated with the profile segment(s) corresponding to START__TIME and STOP__TIME. OFFER__PRICE associated with each segment of a profiled request must match the corresponding BID__PRICE for the reservation request's STATUS to be set to ACCEPTED.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

The Seller may accept a reservation only when the BID__PRICE and the OFFER__PRICE are the same.

Template: transsell

1. Input

CONTINUATION__FLAG
ASSIGNMENT__REF (Required)
START__TIME
STOP__TIME
OFFER__PRICE
STATUS=RECEIVED, INVALID, STUDY, COUNTEROFFER, ACCEPTED, REFUSED, SUPERSEDED, DECLINED, ANNULLED, RETRACTED, DISPLACED
STATUS__COMMENTS
ANC__SVC__LINK
ANC__SVC__REQ
NEGOTIATED__PRICE__FLAG
SELLER__COMMENTS
RESPONSE__TIME__LIMIT
REASSIGNED__REF
REASSIGNED__CAPACITY (Previous capacity to be reassigned)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME

2. Response

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF
START__TIME
STOP__TIME
OFFER__PRICE
STATUS=RECEIVED, INVALID, STUDY, COUNTEROFFER, ACCEPTED, REFUSED, SUPERSEDED, DECLINED, ANNULLED, RETRACTED, DISPLACED
STATUS__COMMENTS
ANC__SVC__LINK
ANC__SVC__REQ
NEGOTIATED__PRICE__FLAG
SELLER__COMMENTS
RESPONSE__TIME__LIMIT
REASSIGNED__REF
REASSIGNED__CAPACITY (Previous capacity to be reassigned)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME
ERROR__MESSAGE

4.3.7.4 Customer Confirmation of Purchase (Input) (transcust)

Customer Confirmation of Purchase (Input) (transcust) is input by the Customer to state his agreement or withdrawal of a purchase after the Seller has indicated that the purchase request is approved. Only the BID__PRICE, STATUS, STATUS__COMMENTS, ANC__SVC__LINK, and CUSTOMER__COMMENTS data elements can be modified in this Template.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

The Customer must change the BID__PRICE to be equal to the OFFER__PRICE before the reservation request's STATUS can be set to CONFIRMED.

If the Provider/Seller supports the negotiation of price on individual segments of a profiled reservation request (support for reservation profiles is at the discretion of the Provider), BID__PRICE, START__TIME and STOP__TIME data elements may be submitted in continuation records to modify the Customer's bid price associated with the profile segment(s) corresponding to START__TIME and STOP__TIME. BID__PRICE associated with each segment of a profiled request must match the corresponding OFFER__PRICE for the reservation request's STATUS to be set to CONFIRMED.

Template: transcust

1. Input

CONTINUATION__FLAG

ASSIGNMENT__REF (Required)
START__TIME
STOP__TIME
REQUEST__REF
DEAL__REF
BID__PRICE
STATUS=REBID, CONFIRMED, WITHDRAWN
STATUS__COMMENTS
ANC__SVC__LINK
STATUS__NOTIFICATION If left blank, then original URL from the transrequest will be used CUSTOMER__COMMENTS

2. Response

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF
START__TIME
STOP__TIME
REQUEST__REF
DEAL__REF
BID__PRICE
STATUS=REBID, CONFIRMED, WITHDRAWN
STATUS__COMMENTS
ANC__SVC__LINK
STATUS__NOTIFICATION
CUSTOMER__COMMENTS
ERROR__MESSAGE

4.3.7.5 Alternate Point of Receipt/Delivery (transalt)

Alternate Point of Delivery (transalt). The Customer may submit a request to use alternate points of receipt/delivery for an existing confirmed reservation, if allowed by applicable tariffs and service agreements. The assignment reference value associated with the prior confirmed reservation must be provided in the REASSIGNED__REF data element along with the alternate points of receipt/delivery. The request may be submitted as PRECONFIRMED. Requests submitted by the transalt template shall be handled by OASIS Nodes identically to reservations submitted using the transrequest template.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

REASSIGNED__REF contains the ASSIGNMENT__REF of the original, confirmed reservation that is being designated to the alternate points of delivery/receipt. The Template allows for only one REASSIGNED__REF field. Therefore, if multiple, original reservations are being designated, a separate transalt Template must be submitted associated with each original reservation. There is no restriction that multiple submissions of the transalt Template may all refer back to the same, original reservation (i.e., may have the same REASSIGNED__REF).

Demand profiles associated with the designation of alternate POD/POR may be submitted by additional records designating ''Y'' for CONTINUATION__FLAG, and specifying the CAPACITY, START__TIME, and STOP__TIME data elements corresponding to the MW demand being requested over each time interval associated with the reservation. The CAPACITY, START__TIME, and STOP__TIME data elements must fall within the amounts and time intervals associated with the original reservation.

The following data elements in transstatus and the appropriate ones in transcust shall take on the following implied values:

SELLER__CODE (value from SELLER__CODE in reservation designated by REASSIGNED__REF)
SELLER__DUNS (value from SELLER__DUNS in reservation designated by REASSIGNED__REF)
OFFER__PRICE=$0
BID__PRICE=$0
CEILING__PRICE=$0
TS__CLASS=SECONDARY or other class allowed by the Provider
TS__TYPE=(value from TS__TYPE in reservation designated by REASSIGNED__REF)
REASSIGNED__CAPACITY=MW capacity submitted in CAPACITY field of Template
REASSIGNED__START__TIME=time submitted in START__TIME field of Template
REASSIGNED__STOP__TIME=time submitted in STOP__TIME field of Template

Template: transalt

1. Input

CONTINUATION__FLAG
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
PRECONFIRMED
CAPACITY (Must be less than or equal to original capacity reservation)
TS__CLASS
STATUS__NOTIFICATION
START__TIME (Valid only to hour and within the time of original reservation)
STOP__TIME (Valid only to hour and within the time of original reservation)
REQUEST__REF
DEAL__REF
REASSIGNED__REF (Assignment Reference for the Firm reservation being used for request)
CUSTOMER__COMMENTS

2. Response (acknowledgment)

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF (assigned by the TSIP)
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE

SINK
PRECONFIRMED
CAPACITY (Capacity requested)
TS__CLASS
STATUS__NOTIFICATION
START__TIME
STOP__TIME
REQUEST__REF
DEAL__REF
REASSIGNED__REF (Assignment Reference for the Firm reservation being used for request)
CUSTOMER__COMMENTS
ERROR__MESSAGE

4.3.7.6 Seller to Reassign Service Rights to Another Customer (transassign)

Seller to Reassign Service Rights to Another Customer (Input) (transassign) is used by the seller to ask the Transmission Services Information Provider to reassign some or all of the seller's rights to Services to another Customer, for seller confirmed transactions that have occurred off the OASIS Node. The TSIP shall assign a unique ASSIGNMENT__REF in the response (acknowledgment) and enter the status CONFIRMED as viewed in the transstatus Template.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Only the following fields may be redefined in a continuation record for the transassign input Template: CAPACITY, START__TIME, STOP__TIME, REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Template: transassign

1. Input

CONTINUATION__FLAG
CUSTOMER__CODE
CUSTOMER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
START__TIME
STOP__TIME
OFFER__PRICE
ANC__SVC__LINK (optional: filled in if assignment is different than original transmission reservation)
POSTING__NAME
REASSIGNED__REF
REASSIGNED__CAPACITY (Capacity being sold from each previous assignment)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME
SELLER__COMMENTS

2. Response (acknowledgment)

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF (assigned by TSIP)
CUSTOMER__CODE
CUSTOMER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
CAPACITY (Total capacity being reassigned)
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
START__TIME
STOP__TIME
OFFER__PRICE
ANC__SVC__LINK
POSTING__NAME
REASSIGNED__REF
REASSIGNED__CAPACITY (Capacity being sold from each previous assignment)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME
SELLER__COMMENTS
ERROR__MESSAGE

4.3.8 Seller Posting of Transmission Services

Sellers shall use the following Templates for providing sell information. They may aggregate portions of several previous purchases to create a new service, if this capability is provided by the Transmission Services Information Provider:

4.3.8.1 Seller Capacity Posting (transpost)

Seller Capacity Posting (Input) (transpost) shall be used by the Seller to post the transmission capacity for resale on to the OASIS Node.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Template: transpost

1. Input

PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
INTERFACE__TYPE
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
ANC__SVC__REQ
START__TIME
STOP__TIME
OFFER__START__TIME
OFFER__STOP__TIME
SALE__REF
OFFER__PRICE
SERVICE__DESCRIPTION
SELLER__COMMENTS

2. Response (Acknowledgment)

RECORD__STATUS
POSTING__REF (Assigned by TSIP)
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
INTERFACE__TYPE
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
ANC__SVC__REQ
START__TIME
STOP__TIME
OFFER__START__TIME
OFFER__STOP__TIME
SALE__REF
OFFER__PRICE
SERVICE__DESCRIPTION
SELLER__COMMENTS
ERROR__MESSAGE

4.3.8.2 Seller Capacity Modify (transupdate)

Seller Capacity Modify (Input) (*transupdate*) shall be used by a Seller to modify a posting of transmission capacity.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Template: transupdate

1. Input

POSTING__REF (Must be provided)
CAPACITY (only if modified)
START__TIME (only if modified)
STOP__TIME (only if modified)
OFFER__START__TIME (only if modified)
OFFER__STOP__TIME (only if modified)
ANC__SVC__REQ (only if modified)
SALE__REF (only if modified)
OFFER__PRICE (only if modified)
SERVICE__DESCRIPTION (only if modified)
SELLER__COMMENTS (only if modified)

2. Response (acknowledgment)

RECORD__STATUS
POSTING__REF
CAPACITY
START__TIME
STOP__TIME
OFFER__START__TIME
OFFER__STOP__TIME
ANC__SVC__REQ
SALE__REF
OFFER__PRICE

SERVICE__DESCRIPTION
SELLER__COMMENTS
ERROR__MESSAGE

4.3.9 Purchase of Ancillary Services

4.3.9.1 Customer Requests to Purchase Ancillary Services (ancrequest)

Customer Requests to Purchase Ancillary Services (ancrequest) (Input, Template Upload) is used by the customer to request ancillary services that have been posted by a seller of those services. The response simply acknowledges that the Customer's request was received by the OASIS Node. It does not imply that the Seller has received the request. The same requirements exist for the use of STATUS__NOTIFICATION as for transrequest. Submitting values into the reference Data Elements is optional.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Supporting ''profiles'' of ancillary service, which request different capacities (and optionally price) for different time periods within a single request, is at the discretion of the Primary Provider. Continuation records may be used to indicate requests for these service profiles. Each segment of a profile is represented by the data elements CAPACITY, START__TIME, and STOP__TIME, which define the intervals in time overwhich a non-zero MW demand is being requested. The initial segment of a profile is defined by the CAPACITY, START__TIME and STOP__TIME data elements specified in the first/only record submitted; subsequent segments are specified in continuation records each containing the appropriate CAPACITY, START__TIME and STOP__TIME values defining the segment. Provider's may optionally support price negotiation on segments of a profiled reservation request. In this case, the BID__PRICE data element is also included in each continuation record. If the BID__PRICE data element is not specified in the continuation records, the BID__PRICE specified in the first/only record submitted will be applied to the entire reservation request.

The START__TIME and STOP__TIME indicate the requested period of service.

When the request is received at the OASIS Node, the TSIP assigns a unique ASSIGNMENT__REF value and queues the request with a time stamp. The STATUS for the request is QUEUED.

Specification of a value YES in the PRECONFIRMED field authorizes the TSIP to automatically change the STATUS field in the ancstatus Template to CONFIRMED when that request is ACCEPTED by the Seller.

Template: ancrequest

1. Input

CONTINUATION__FLAG
SELLER__CODE
SELLER__DUNS
CONTROL__AREA
CAPACITY
SERVICE__INCREMENT
ANC__SERVICE__TYPE
STATUS__NOTIFICATION
START__TIME
STOP__TIME
BID__PRICE
PRECONFIRMED
POSTING__REF (Optionally set by Customer)
SALE__REF (Optionally set by Customer)
REQUEST__REF (Optionally set by Customer)
DEAL__REF (Optionally set by Customer)
CUSTOMER__COMMENTS

2. Response (acknowledgment)

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF (assigned by TSIP)
SELLER__CODE
SELLER__DUNS
CONTROL__AREA
CAPACITY
SERVICE__INCREMENT
ANC__SERVICE__TYPE
STATUS__NOTIFICATION
START__TIME
STOP__TIME
BID__PRICE
PRECONFIRMED
POSTING__REF
SALE__REF
REQUEST__REF
DEAL__REF
CUSTOMER__COMMENTS
ERROR__MESSAGE

4.3.9.2 Ancillary Services Status (ancstatus)

Ancillary Services Status (ancstatus) is used to provide the status of purchase requests regarding the ancillary services that are available for sale by all Service Providers.

Continuation records may be returned in association with a ancillary services reservation to convey information regarding: 1) sale or assignment of ancillary rights on the secondary market (reassignments), or 2) profiled requests. When an ancillary reservation request is the result of a sale or assignment of transmission or ancillary rights on the secondary market, the identity of the original reservation, capacity, and time interval over which rights are assigned to the new reservation are defined by the data elements REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME. These data elements will be returned in continuation records when more than one set of reassignment information is associated with a reservation. If the reservation has an associated profile (support for reservation profiles is at the discretion of the Provider), CAPACITY, START__TIME and STOP__TIME for the segments of the profile will be returned in continuation records. If the Provider supports negotiation of price on each segment of a profiled request, BID__PRICE and OFFER__PRICE will also be returned with CAPACITY, START__TIME and STOP__TIME.

The AFFILIATE__FLAG will be set by the TSIP to indicate whether or not the Customer is an affiliate of the Seller. The values of STATUS and processes for setting STATUS are the same as for transstatus.

Template: ancstatus

1. Query

SELLER__CODE*
SELLER__DUNS*
CUSTOMER__CODE*
CUSTOMER__DUNS*
CONTROL__AREA
SERVICE__INCREMENT
ANC__SERVICE__TYPE
STATUS
START__TIME
STOP__TIME
START__TIME__QUEUED
STOP__TIME__QUEUED
NEGOTIATED__PRICE__FLAG
ASSIGNMENT__REF
REASSIGNED__REF
SALE__REF
REQUEST__REF
DEAL__REF
TIME__OF__LAST__UPDATE (only if TIME__OF__LAST__UPDATE is posted by record)

2. Response

CONTINUATION__FLAG
ASSIGNMENT__REF
SELLER__CODE
SELLER__DUNS
CUSTOMER__CODE
CUSTOMER__DUNS
AFFILIATE__FLAG (Set by TSIP)
CONTROL__AREA
CAPACITY
SERVICE__INCREMENT
ANC__SERVICE__TYPE
START__TIME
STOP__TIME
CEILING__PRICE
OFFER__PRICE
BID__PRICE
PRICE__UNITS
PRECONFIRMED
POSTING__REF
SALE__REF
REQUEST__REF
DEAL__REF
NEGOTIATED__PRICE__FLAG (''L'' if Seller accepted Price is lower than OFFER__PRICE in ancoffering Template; ''H'' if higher; otherwise blank)
STATUS=QUEUED, INVALID, RECEIVED, STUDY, REBID, COUNTEROFFER, ACCEPTED, REFUSED, CONFIRMED, WITHDRAWN, SUPERSEDED, DECLINED, ANNULLED, RETRACTED, DISPLACED
STATUS__NOTIFICATION
STATUS__COMMENTS
TIME__QUEUED
RESPONSE__TIME__LIMIT
TIME__OF__LAST__UPDATE
PRIMARY__PROVIDER__COMMENTS
SELLER__COMMENTS
CUSTOMER__COMMENTS
SELLER__NAME
SELLER__PHONE
SELLER__FAX
SELLER__EMAIL
CUSTOMER__NAME
CUSTOMER__PHONE
CUSTOMER__FAX
CUSTOMER__EMAIL
REASSIGNED__REF
REASSIGNED__CAPACITY
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME

4.3.9.3 Seller Approves Ancillary Service (ancsell)

Seller Approves Ancillary Service (ancsell) is used by the Seller to confirm acceptance after the Seller has approved the purchase of ancillary service.

The following fields may be submitted in continuation records for the ancsell Template to convey ancillary rights from multiple original ancillary service reservations to this new reservation: REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME. If the Provider/Seller supports the negotiation of price on individual segments of a profiled reservation request (support for reservation profiles is at the discretion of the Provider), OFFER__PRICE, START__TIME and STOP__TIME data elements may be submitted in continuation records to modify the Seller's offer price associated with the profile segment(s) corresponding to START__TIME and STOP__TIME. OFFER__PRICE associated with each segment of a profiled request must match the corresponding BID__PRICE for the reservation request's STATUS to be set to ACCEPTED.

SELLER__ CODE and SELLER__ DUNS shall be determined from the registered connection used to input the request.

Template: ancsell

1. Input

CONTINUATION__ FLAG
ASSIGNMENT__REF (Required)
START__TIME
STOP__TIME
OFFER__PRICE
STATUS=INVALID, RECEIVED, STUDY, COUNTEROFFER, SUPERSEDED, ACCEPTED, REFUSED, DECLINED, ANNULLED, RETRACTED, DISPLACED
STATUS__COMMENTS
NEGOTIATED__PRICE__FLAG
RESPONSE__TIME__LIMIT
SELLER__COMMENTS
REASSIGNED__REF
REASSIGNED__CAPACITY
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME

2. Response (acknowledgment)

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF
START__TIME
STOP__TIME
OFFER__PRICE
STATUS=INVALID, RECEIVED, STUDY, COUNTEROFFER, SUPERSEDED, ACCEPTED, REFUSED, DECLINED, ANNULLED, RETRACTED, DISPLACED
STATUS__COMMENTS
NEGOTIATED__PRICE__FLAG
RESPONSE__TIME__LIMIT
SELLER__COMMENTS
REASSIGNED__REF
REASSIGNED__CAPACITY
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME
ERROR__MESSAGE

4.3.9.4 Customer accepts Ancillary Service (anccust)

Customer accepts Ancillary Service (anccust) is used by the customer to confirm acceptance after the seller has approved the purchase of ancillary service.

The Customer must change the BID__PRICE to be equal to the OFFER__PRICE before the reservation request's STATUS can be set to CONFIRMED. If the Provider/Seller supports the negotiation of price on individual segments of a profiled reservation request (support for reservation profiles is at the discretion of the Provider), BID__PRICE, START__TIME and STOP__TIME data elements may be submitted in continuation records to modify the Customer's bid price associated with the profile segment(s) corresponding to START__TIME and STOP__TIME. BID__PRICE associated with each segment of a profiled request must match the corresponding OFFER__PRICE for the reservation request's STATUS to be set to CONFIRMED.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Template: anccust

1. Input

CONTINUATION__FLAG
ASSIGNMENT__REF (Required)
START__TIME
STOP__TIME
REQUEST__REF
DEAL__REF
BID__PRICE
STATUS=REBID, CONFIRMED, WITHDRAWN
STATUS__COMMENTS
STATUS__NOTIFICATION (If left blank, then the original URL from the ancrequest will be used
CUSTOMER__COMMENTS

2. Response (Acknowledgment)

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF
START__TIME
STOP__TIME
REQUEST__REF
DEAL__REF
BID__PRICE
STATUS= REBID, CONFIRMED, WITHDRAWN
STATUS__COMMENTS
STATUS__NOTIFICATION
CUSTOMER__COMMENTS
ERROR__MESSAGE

4.3.9.5 Seller to Reassign Service Rights to Another Customer (ancassign)

Seller to Reassign Service Rights to Another Customer (Input) (ancassign) is used by the seller to ask the Transmission Services Information Provider to reassign some or all of the seller's rights to Services to another Customer, for seller confirmed transactions

that have occurred off the OASIS Node. Implementation of this template is optional until such time that a business case requiring the use of such a facility to selectively reassign ancillary services is clearly demonstrated.

The TSIP shall assign a unique ASSIGNMENT__REF in the response (acknowledgment) and enter the status CONFIRMED as viewed in the ancstatus Template.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Only the following fields may be redefined in a continuation record for the ancassign input Template: CAPACITY, START__ TIME, STOP__ TIME, REASSIGNED__ REF, REASSIGNED__ CAPACITY, REASSIGNED__ START__ TIME, and REASSIGNED__ STOP__ TIME.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Template: ancassign

1. Input

CONTINUATION__FLAG
CUSTOMER__CODE
CUSTOMER__DUNS
CONTROL__AREA
CAPACITY
SERVICE__INCREMENT
ANC__SERVICE__TYPE
START__TIME
STOP__TIME
OFFER__PRICE
POSTING__NAME
REASSIGNED__REF
REASSIGNED__CAPACITY (Capacity being sold from each previous assignment)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME
SELLER__COMMENTS

2. Response (acknowledgment)

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF (assigned by TSIP)
CUSTOMER__ CODE
CUSTOMER__DUNS
CONTROL__AREA
CAPACITY (Total capacity being reassigned)
SERVICE__INCREMENT
ANC__SERVICE__TYPE
START__TIME
STOP__TIME
OFFER__PRICE
POSTING__NAME
REASSIGNED__REF
REASSIGNED__CAPACITY (Capacity being sold from each previous assignment)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME
SELLER__COMMENTS
ERROR__MESSAGE

4.3.10 Seller Posting of Ancillary Services

4.3.10.1 Seller Ancillary Services Posting (ancpost)

Seller Ancillary Services Posting (ancpost) is used by the Seller to post information regarding the different services that are available for sale by third party Sellers of ancillary services.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Template: ancpost

1. Input

CONTROL__AREA
SERVICE__DESCRIPTION
CAPACITY
SERVICE__INCREMENT
ANC__SERVICE__TYPE
START__TIME
STOP__TIME
OFFER__START__TIME
OFFER__STOP__TIME
SALE__REF
OFFER__PRICE
SELLER__COMMENTS

2. Response (acknowledgment)

RECORD__STATUS
POSTING__REF (Assigned by TSIP)
CONTROL__AREA
SERVICE__DESCRIPTION
CAPACITY
SERVICE__INCREMENT
ANC__SERVICE__TYPE
START__TIME
STOP__TIME

OFFER__START__TIME
OFFER__STOP__TIME
SALE__REF
OFFER__PRICE
SELLER__COMMENTS
ERROR__MESSAGE

4.3.10.2 Seller Modify Ancillary Services Posting (ancupdate)

Seller Modify Ancillary Services Posting (ancupdate) is used by the Seller to modify posted information regarding ancillary services that are available for sale by a third party Seller.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Template: ancupdate

1. Input

POSTING__REF (Required)
CAPACITY (only if modified)
SERVICE__DESCRIPTION (only if modified)
START__TIME (only if modified)
STOP__TIME (only if modified)
OFFER__START__TIME (only if modified)
OFFER__STOP__TIME (only if modified)
SALE__REF (only if modified)
OFFER__PRICE (only if modified)
SELLER__COMMENTS (only if modified)

2. Response (acknowledgment)

RECORD__STATUS
POSTING__REF
CAPACITY
SERVICE__DESCRIPTION
START__TIME
STOP__TIME
OFFER__START__TIME
OFFER__STOP__TIME
SALE__REF
OFFER__PRICE
SELLER__COMMENTS
ERROR__MESSAGE

4.3.11 Informal Messages

4.3.11.1 Provider/Customer Want Ads and Informal Message Posting Request (messagepost)

Provider/Customer Want Ads and Informal Message Posting Request (messagepost) is used by Providers and Customers who wish to post a message. The valid entries for CATEGORY shall be defined by providers and shall be listed in the List of CATEGORY Template.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Template: messagepost

1. Input

SUBJECT
CATEGORY
VALID__FROM__TIME
VALID__TO__TIME
MESSAGE (must be specified)

2. Response (acknowledgment)

RECORD__STATUS
POSTING__REF (assigned by information provider)
SUBJECT
CATEGORY
VALID__FROM__TIME
VALID__TO__TIME
MESSAGE
ERROR__MESSAGE

4.3.11.2 Message (message)

Message (message) is used to view a posted Want Ad or Informal Message. The CATEGORY data element can be queried.

Template: message

1. Query

CUSTOMER__CODE
CUSTOMER__DUNS
POSTING__REF
CATEGORY
VALID__FROM__TIME
VALID__TO__TIME
TIME__POSTED

2. Response

CUSTOMER__CODE
CUSTOMER__DUNS

POSTING__REF
SUBJECT
CATEGORY
VALID__FROM__TIME
VALID__TO__TIME
TIME__POSTED
CUSTOMER__NAME
CUSTOMER__PHONE
CUSTOMER__FAX
CUSTOMER__EMAIL
MESSAGE

4.3.11.3 Provider/Sellers Message Delete Request (messagedelete)

Provider/Sellers Message Delete Request (messagedelete) is used by Providers and Sellers who wish to delete their message. The POSTING__REF number is used to determine which message.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Template: messagedelete

1. Input

POSTING__REF

2. Response (Acknowledgment)

RECORD__STATUS
POSTING__REF
ERROR__MESSAGE

4.3.11.4 Personnel Transfers (personnel)

The personnel template is used to indicate when personnel are transferred between the merchant function and the Transmission Provider function as required by FERC Statutes and Regulations (37.4(b)(2)) .

Template: personnel

1. Query

TIME__OF__LAST__UPDATE
START__TIME__POSTED
STOP__TIME__POSTED

2. Response

POSTING__NAME
EMPLOYEE__NAME
FORMER__POSITION
FORMER__COMPANY
FORMER__DEPARTMENT
NEW__POSITION
NEW__COMPANY
NEW__DEPARTMENT
DATE__TIME__EFFECTIVE
TIME__POSTED
TIME__OF__LAST__UPDATE

4.3.11.5 Discretion (discretion)

The discretion template is used to describe the circumstances when discretion was exercised in applying terms of the tariff, as described in the FERC Statutes and Regulations (37.4(b)(5)(iii)).

Template: discretion

1. Query

START__TIME__POSTED
STOP__TIME__POSTED
START__TIME
STOP__TIME
SERVICE__TYPE
SERVICE__NAME
TIME__OF__LAST__UPDATE

2. Response

POSTING__NAME
RESPONSIBLE__PARTY__NAME (name of person granting discretion)
SERVICE__TYPE (ancillary or transmission)
SERVICE__NAME (make consistent with offering Templates)
TARIFF__REFERENCE
START__TIME
STOP__TIME
DISCRETION__DESCRIPTION
TIME__POSTED
TIME__OF__LAST__UPDATE

4.3.11.6 Standards of Conduct (stdconduct)

The stdconduct template indicates when information is disclosed in a manner contrary to the standards of conduct, as described in the FERC Statutes and Regulations (37.4(b)(4)(ii)).

Template: stdconduct

1. Query

START__TIME__POSTED

STOP__TIME__POSTED
TIME__OF__LAST__UPDATE

2. Response

POSTING__NAME
RESPONSIBLE__PARTY__NAME
STANDARDS__OF__CONDUCT__ISSUES
TIME__POSTED
TIME__OF__LAST__UPDATE

4.4 FILE REQUEST AND FILE DOWNLOAD EXAMPLES

4.4.1 File Example for Hourly Offering

Example of the request to Primary Provider, aaa, and response for Seller, wxyz, for PATH__NAME ''W/AAAA/PATH-ABC//'' for April 10, 1996 from 8 a.m. to 3 p.m. (Note that the PATH__NAME consists of a REGION__CODE, PRIMARY__PROVIDER__CODE, PATH__CODE, and an OPTIONAL__CODE, separated with a slash, ''/''.) The VERSION for Phase 1A is 1.3.

The request is in the form of a URL query string and the response is a ASCII delimited file.

1. Query

http://(OASIS Node name)/OASIS/aaa/data/transoffering? ver=1.2&templ=transoffering& fmt=data&pprov=AAAA &pprovduns=123456789& path=W/AAA/ABC// &seller=WXYZAA &sellerduns=987654321& POR=aaa& POD=bbb& servincre=hourly& TSCLASS1=firm &TSCLASS2=non-firm&tz=PD&stime=19960410080000PD&sptime= 19960410150000PD

2. Response Data

REQUEST-STATUS=200↵ (Successful)
TIME__STAMP=19960409113526PD↵
VERSION=1.35↵
TEMPLATE=transoffering↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AAAA↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=14↵
COLUMN__HEADERS=TIME__OF__LAST__UPDATE, SELLER__CODE, SELLER__DUNS, PATH__NAME, POINT__OF__ RECEIPT, POINT__OF__DELIVERY, INTERFACE__TYPE, OFFER__START__TIME, OFFER__STOP__TIME, START__TIME, STOP__TIME, CAPACITY, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS, SALE__REF, POSTING__REF, CEILING__PRICE, OFFER__PRICE, PRICE__UNITS, SERVICE__DESCRIPTION, SELLER__NAME, SELLER__PHONE, SELLER__FAX, SELLER-EMAIL, SELLER__COMMENTS↵
19960409030000PD, WXYZ, 987654321, W/AAA/ABC//, N/A, N/A, E, 19960402080000PD, 19960410080000PD, 199604100 80000PD, 19960410090000PD, 300, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, N/A, A001, 1.50, 1.35, MW, N/A, N/A, N/A, N/A, N/A, 10% DISCOUNT↵
19960409030000PD, WXYZ, 987654321, W/AAA/ABC//, N/A, N/A, E, 19960402080000PD, 19960410080000PD, 199604100 80000PD, 19960410090000PD, 300, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A, N/A, A001, 1.50, 1.35, MW, N/A, N/A, N/A, N/A, N/A, 10% DISCOUNT↵
19960409030000PD, WXYZ, 987654321, W/AAA/ABC//, N/A, N/A, E, 19960402080000PD, 19960410080000PD, 199604100 90000PD, 1996041010000PD, 300, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, N/A, A001, 1.50, 1.35, MW, N/A, N/A, N/A, N/A, N/A, 10% DISCOUNT↵
19960409030000PD, WXYZ, 987654321, W/AAA/ABC//, N/A, N/A, E, 19960402080000PD, 19960410080000PD, 199604100 90000PD, 19960410100000PD, 300, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A, N/A, A001, 1.50, 1.35, MW, N/A, N/A, N/A, N/A, N/A, 10% DISCOUNT↵
19960409030000PD, WXYZ, 987654321, W/AAA/ABC//, N/A, N/A, E, 19960402080000PD, 19960410080000PD, 199604101 00000PD, 19960410110000PD, 300, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, N/A, A001, 1.50, 1.35, MW, N/A, N/A, N/A, N/A, N/A, 10% DISCOUNT↵
19960409030000PD, WXYZ, 987654321, W/AAA/ABC//, N/A, N/A, E, 19960402080000PD, 19960410080000PD, 199604101 00000PD, 19960410110000PD, 300, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A, N/A, A001, 1.50, 1.35, MW, N/A, N/A, N/A, N/A, N/A, 10% DISCOUNT↵
19960409030000PD, WXYZ, 987654321, W/AAA/ABC//, N/A, N/A, E, 19960402080000PD, 19960410080000PD, 199604101 10000PD, 19960410120000PD, 300, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, N/A, A001, 1.50, 1.35, MW, N/A, N/A, N/A, N/A, N/A, 10% DISCOUNT↵
19960409030000PD, WXYZ, 987654321, W/AAA/ABC//, N/A, N/A, E, 19960402080000PD, 19960410080000PD, 199604101 10000PD, 19960410120000PD, 300, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A, N/A, A001, 1.50, 1.35, MW, N/A, N/A, N/A, N/A, N/A, 10% DISCOUNT↵
. . .
. . .
. . .
19960409030000PD, WXYZ, 987654321, W/AAA/ABC//, N/A, N/A, E, 19960402080000PD, 19960410080000PD, 199604101 40000PD, 19960410150000PD, 300, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, N/A, A001, 1.50, 1.35, MW, N/A, N/A, N/A, N/A, N/A, 10% DISCOUNT↵
19960409030000PD, WXYZ, 987654321, W/AAA/ABC//, N/A, N/A, E, 19960402080000PD, 19960410080000PD, 199604101 40000PD, 19960410150000PD, 300, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A, N/A, A001, 1.50, 1.35, MW, N/A, N/A, N/A, N/A, N/A, 10% DISCOUNT↵

4.4.2 File Example for Hourly Schedule Data

This example shows a request for the hourly schedule data from Primary Provider, aaa, related to the seller, wxyz, for the period 10 a.m. to 3 p.m. on April 10, 1996.

There are two identical requests examples using two slightly different methods. The first request is using a HTTP URL request string through an HTML GET method. The second request is a similar example using fetch__http from a file using a POST method.

1. Query

URL Request (HTTP method=GET)

http://(OASIS Node name)/OASIS/aaa/data/schedule? ver=1.0& pprov=AAAA& templ=schedule& fmt=data &pprovduns=123456789 &path=W/AAA/ABC//& seller=WXYZ &por=BBB &pod=CCC& tz=PD& stime=19960410100000PD& sptime=19960410150000PD

URL Request (HTTP method=POST)

$ fetch__ http http://(OASIS Node name)/OASIS/aaa/data/OASISdata -f c:/OASIS/wxyz/upload/in-file.txt
Where in-file.txt contains the following:
ver=1.0& pprov=AAAA& templ=schedule& fmt=data &pprovduns=123456789 &path=W/AAA/ABC//& seller=WXYZ &por=BBB &pod=CCC& tz=PD& stime=19960410100000PD& sptime=19960410150000PD

2. Response Data

REQUEST-STATUS=200↵
TIME__STAMP=19960410114702PD↵
VERSION=1.3↵
TEMPLATE=schedule↵
OUTPUT__FORMAT=DATA ↵
PRIMARY__PROVIDER__CODE=AAAA↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=5↵
COLUMN__ HEADERS=TIME__ OF__ LAST__ UPDATE, SELLER__ CODE, SELLER__ DUNS, PATH__ NAME,
POINT__ OF__ RECEIPT, POINT__ OF__ DELIVERY, CUSTOMER__ CODE, CUSTOMER__ DUNS,
AFFILIATE__ FLAG, START__ TIME, STOP__ TIME, CAPACITY, CAPACITY__ SCHEDULED, SERVICE__ INCREMENT,
TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS, ASSIGNMENT__REF↵
19960409030000pd, wxyz, 0987654321, W/AAA/ABC//, BBB, CCC, WXYZAA, 0987654322, Y,
19960410100000PD, 19960410110000PD, 300, 300, HOURLY, FIRM, POINT__TO__ POINT, OFF__ PEAK, N/A, 856743↵
. . . ↵
. . . ↵
19960409030000pd, wxyz, 0987654321, W/AAA/ABC//, BBB, CCC, WXYZAA, 0987654322, Y,
19960410130000PD, 19960410140000PD, 300, 300, HOURLY, FIRM, POINT__TO__ POINT, OFF__ PEAK, N/A, 856743↵
19960409030000pd, wxyz, 0987654321, W/AAA/ABC//, BBB, CCC, WXYZAA, 0987654322, Y,
19960410140000PD, 19960410150000PD, 300, 300, HOURLY, FIRM, POINT__TO__ POINT, OFF__ PEAK, N/A, 856743↵

4.4.3 Customer Posting a Transmission Service Offering

This example shows how a Customer would post for sale the transmission service that was purchased previously. The Seller would create a file and upload the file using the FETCH__HTTP program to send a file to the OASIS Node of the Primary Provider.

1. Input:

VERSION=1.3↵
TEMPLATE=transpost↵
OUTPUT__FORMAT=DATA ↵
PRIMARY__PROVIDER__CODE=AAAA↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=1↵
COLUMN__HEADERS=PATH__NAME, POINT__OF__RECEIPT, POINT__OF__DELIVERY, INTERFACE__TYPE,
CAPACITY, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS, START__TIME,
STOP__TIME, OFFER__START__TIME, OFFER__STOP__TIME, SALE__REF, OFFER__PRICE,
SERVICE__DESCRIPTION, SELLER__COMMENTPF↵
WXYZ, 987654321, W/AAA/ABC//, N/A, N/A, E, 150, HOURLY, FIRM, POINT__TO__ POINT, OFF__ PEAK, N/A, 19960402080000PD, 19960410080000PD, 19960410080000PD, 19960410150000PD, A123,.90,N/A, ''As Joe said, ''''It is a good buy''''''↵
FETCH__HTTP Command to send posting
$ fetch__ http http://(OASIS Node name)/OASIS/abcd/data/transrequest -f c:/OASIS/abcd/upload/post.txt

2. Response Data

REQUEST-STATUS=200 ↵ (Successful)
TIME__STAMP=19960409113526PD ↵
VERSION=1.3↵
TEMPLATE=transpost↵
OUTPUT__FORMAT=DATA ↵
PRIMARY__PROVIDER__CODE=AAAA↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=1↵
COLUMN__HEADERS=RECORD__STATUS, PATH__NAME, POINT__OF__RECEIPT, POINT__OF__DELIVERY,
INTERFACE__TYPE, CAPACITY, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS,
START__TIME, STOP__TIME, OFFER__START__TIME, OFFER__STOP__TIME, SALE__REF, OFFER__PRICE,
SERVICE__DESCRIPTION, SELLER__COMMENTS, ERROR__MESSAGE↵
200, WXYZ, 987654321, W/AAA/ABC//, N/A, N/A, E, 150, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A,
19960402080000PD, 19960410080000PD, 19960410080000PD, 19960410150000PD, A123, .90, N/A, ''As Joe said, ''''It is a good buy''''', No Error↵

4.4.4 Example of Re-aggregating Purchasing Services Using Reassignment

The following examples do not show the complete Template information, but only show those elements of the Template of interest to the example.

a. Customer #1, ''BestE'' requests the purchase of 150 MW Firm ATC for 8 a.m. to 5 p.m. for $1.00 from a Primary Provider (*transrequest*).

TEMPLATE=transrequest↵
CUSTOMER__CODE=BestE↵
CAPACITY=150↵
TS__CLASS=''FIRM''↵
START__TIME=''1996050708000000PD''↵
STOP__TIME=''1996050717000000PD''↵
BID__PRICE=''$1.00''↵

The Information Provider assigns ASSIGNMENT__REF = 5000 on acknowledgment.

b. Customer #1 purchases 120 MW ATC Non-firm for 3 p.m. to 9 p.m. for $.90 (transrequest). The Information Provider assigns the ASSIGNMENT__REF=5001 when the request for purchase is made and is shown in the acknowledgment.

TEMPLATE=''transrequest''↵
CUSTOMER__CODE=''BestE''↵

CAPACITY=120↵
TS__CLASS=''NON-FIRM''↵
START__TIME=''1996050715000000PD''↵
STOP__TIME=''1996050721000000PD''↵
BID__PRICE=''$1.05''↵

c. Customer #1 becomes Seller #1 and post the Transmission service of 100 MW ATC Non-firm capacity from 8 a.m. to 9 p.m. for resale at $.90/MW-hour.

TEMPLATE=''transpost''↵
SELLER__CODE=''BestE''↵
CAPACITY=100↵
TS__CLASS=''NON-FIRM''↵
START__TIME=''1996050708000000PD''↵
STOP__TIME=''1996050721000000PD''↵
SALE__REF=''BEST100''↵
OFFER__PRICE=.90↵
SELLER__COMMENTS=''aggregating two previous purchases''↵

d. Customer #2 then requests purchase of 100 MW Non-firm from Reseller #1 from 8 a.m. to 6 p.m. for $0.90/MW-hour (transrequest).

TEMPLATE=''transrequest''↵
CUSTOMER__CODE=''Whlsle''↵
SELLER__CODE=''BestE''↵
CAPACITY=100↵
TS__CLASS=''NON-FIRM''↵
START__TIME=''1996050708000000PD''↵
STOP__TIME=''1996050721000000PD''↵
SALE__REF=''BEST100''↵
DEAL__REF=''WPC100''↵
BID__PRICE=.90↵
CUSTOMER__COMMENTS=''Only need service until 6 p.m.''↵

The Information Provider provides the ASSIGNMENT__REF=5002 for this transaction.

e. Seller informs the Information Provider of the reassignment of the previous transmission rights when the seller accepts the customer purchase request (transsell).

TEMPLATE=''transsell''↵
CUSTOMER__CODE=''Whlsle''↵
SELLER__CODE=''BestE''↵
ASSIGNMENT__REF=5002↵
STATUS=''Accepted''↵
REASSIGNED__REF1=5000↵
REASSIGNED__CAPACITY1=100↵
REASSIGNED__START__TIME1 = ''199605070800PD''↵
REASSIGNED__STOP__TIME1 = ''199605071700PD''↵
REASSIGNED__REF2=5001↵
REASSIGNED__CAPACITY2=100↵
REASSIGNED__START__TIME2 = ''199605071700PD''↵
REASSIGNED__STOP__TIME2 = ''199605071800PD''↵

4.4.5 File Examples of the Use of Continuation Records

a. Basic Continuation Records

The first example of the use of Continuation Records is for the transrequest Template submitted by a Seller for purchase of a transmission reservation spanning 16 hours from 06:00 to 22:00 with ''ramped'' demand at beginning and end of time period. Two additional reservations appear prior to and following the profile to demonstrate the handling of ASSIGNMENT__REF by the OASIS Node.

Only the following fields may be redefined in a continuation record for the transrequest Template: CAPACITY, START__TIME, STOP__TIME. Specification of any values corresponding to COLUMN__HEADERs other than CAPACITY, START__TIME, and STOP__TIME will be ignored, however commas must be included to properly align the CAPACITY, START__TIME and STOP__TIME fields.

Input:

VERSION=1.3↵
TEMPLATE=transrequest↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=7↵
COLUMN__HEADERS = CONTINUATION__FLAG, SELLER__CODE, SELLER__DUNS, PATH__NAME, POINT__OF__RECEIPT, POINT__OF__DELIVERY, SOURCE, SINK, CAPACITY, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS, STATUS__NOTIFICATION, START__TIME, STOP__TIME, BID__PRICE, PRECONFIRMED, ANC__SVC__LINK, POSTING__REF, SALE__REF, REQUEST__REF, DEAL__REF, CUSTOMER__COMMENTS↵
N, AEP, 123456789, ABC/XY, CE, MECS, , , 35, DAILY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A,, pub/AEP/incoming, 19970423000000ES, 19970424000000ES, 24.50, Y,SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123); SP:(custR234); SU:(cust:R345), P0123 , S123, R765, D123, Standard daily reservation↵
N, AEP, 123456789, ABC/XY, CE, AMPO, , , 5, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A, pub/AEP/incoming, 19970423060000ES, 19970423070000ES, 2.50, Y,SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123); SP:(custR234); SU:(cust:R345), P0123 , S123, R765, D123, First piece of profile spanning 5 records↵
Y, , , , , , , , 10, , , , , , , 19970423070000ES, 19970423080000ES, , , , , , , , ,Second piece↵
Y, , , , , , , , 15, , , , , , , 19970423080000ES, 19970423200000ES, , , , , , , , ,Third piece↵
Y, , , , , , , , 10, , , , , , , 19970423200000ES, 19970423210000ES, , , , , , , , ,Fourth piece↵
Y, , , , , , , , 5, , , , , , , 19970423210000ES, 19970423220000ES, , , , , , , , ,Fifth piece↵
N, AEP, 123456789, ABC/XY, CE, MECS, , , 20, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, pub/AEP/incoming, 19970423040000ES, 19970423160000ES, 2.00, Y,SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123); SP:(custR234); SU:(cust:R345), P0123 , S123, R765, D123, Standard hourly reservation after profiled reservation↵

Response:

REQUEST__STATUS=200↵

TIME__STAMP=19970422160523ES↵
TEMPLATE=transrequest↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=7↵
COLUMN__HEADERS=RECORD__STATUS, CONTINUATION__FLAG, SELLER__CODE, SELLER__DUNS,
PATH__NAME, POINT__OF__RECEIPT, POINT__OF__DELIVERY, SOURCE, SINK, CAPACITY,
SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS, STATUS__NOTIFICATION,
START__TIME, STOP__TIME, BID__PRICE, PRECONFIRMED, ANC__SVC__LINK, POSTING__REF, SALE__REF,
REQUEST__REF, DEAL__REF, CUSTOMER__COMMENTS, ERROR__MESSAGE↵
200, N, AEP, 123456789, ABC/XY, CE, MECS, , , 35, DAILY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, pub/AEP/incoming, 19970423000000ES, 19970424000000ES, 24.50, Y,SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123); SP:(custR234); SU:(cust:R345), P0123, S123, R765, D123, Standard daily reservation, No error↵
200, N, AEP, 123456789, ABC/XY, CE, AMPO, , , 5, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A, pub/AEP/incoming, 19970423060000ES, 19970423070000ES, 2.50, Y,SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123); SP:(custR234); SU:(cust:R345), P0123, S123, R765, D123, First piece of profile spanning 5 records, No error↵
200, Y, , , , , , , 10, , , , , , , 19970423070000ES, 19970423080000ES, , , , , , , , , Second piece, No error↵
200, Y, , , , , , , 15, , , , , , , 19970423080000ES, 19970423200000ES, , , , , , , , , Third piece, No error↵
200, Y, , , , , , , 10, , , , , , , 19970423200000ES, 19970423210000ES, , , , , , , , , Fourth piece, No error↵
200, Y, , , , , , , 5, , , , , , , 19970423210000ES, 19970423220000ES, , , , , , , , , Fifth piece, No error↵
200, N, AEP, 123456789, ABC/XY, CE, MECS, , , 20, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, pub/AEP/incoming, 19970423040000ES, 19970423160000ES, 2.00,Y,SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123); SP:(custR234); SU:(cust:R345), P0123, S123, R765, D123, Standard hourly reservation after profiled reservation, No error↵

b. Submission of Reassignment Information—Case 1:

In the prior example, a reservation request was submitted to ''Rseler'' for 20MW of Hourly Non-firm service from 04:00 to 16:00. Assume that Rseler has previously reserved service for the CE-VP path for Daily Firm in amount of 50 MW on 4/23 under ASSIGNMENT__REF=7019, and Hourly Non-Firm in amount of 10 MW from 08:00 to 20:00 on 4/23 under ASSIGNMENT__REF=7880. Rseler must designate which transmission service rights are to be reassigned to Cust to satisfy the 20MW from 04:00 to 16:00. This reassignment information is conveyed by Rseler using the *transsell* Template when the reservation request is ACCEPTED. At the SELLER's discretion, rights are assigned from the Non-firm reservation first (ASSIGNMENT__REF=7880) with the balance taken up by the Firm reservation (ASSIGNMENT__REF=7019).

The only fields allowed in ''continuation'' records for *transsell* Template are REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME , and REASSIGNED__STOP__TIME. Price may not be negotiated for each ''segment'' in a capacity profile.

Input:

VERSION=1.3↵
TEMPLATE=transsell↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=3↵
COLUMN__HEADERS=CONTINUATION__FLAG, ASSIGNMENT__REF, OFFER__PRICE, STATUS,
STATUS__COMMENTS, ANC__SVC__LINK, SELLER__COMMENTS, REASSIGNED__REF,
REASSIGNED__CAPACITY, REASSIGNED__START__TIME, REASSIGNED__STOP__TIME
N, 8236, 2.00, ACCEPTED, Status comments here,SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123);
SP:(custR234); SU:(cust:R345), Seller comments here, 7019, 20, 19970423040000ES, 19970423080000ES↵
Y, , , , , , , 7880, 10, 19970423080000ES, 19970423160000ES↵
Y, , , , , , , 7019, 10, 19970423080000ES, 19970423160000ES↵

Response:

VERSION=1.3↵
TEMPLATE=transsell↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=3↵
COLUMN__HEADERS=RECORD__STATUS, CONTINUATION__FLAG, ASSIGNMENT__REF, OFFER__PRICE,
STATUS, STATUS__COMMENTS, ANC__SVC__LINK, SELLER__COMMENTS, REASSIGNED__REF,
REASSIGNED__CAPACITY, REASSIGNED__START__TIME, REASSIGNED__STOP__TIME, ERROR__MESSAGE↵
200, N, 8236, 2.00, ACCEPTED, Status comments here,SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123);
SP:(cust:R234); SU:(cust:R345), Seller comments here, 7019, 20, 19970423040000ES, 19970423080000ES,↵
200, Y, , , , , , , 7880, 10, 19970423080000ES, 19970423160000ES,↵
200, Y, , , , , , , 7019, 10, 19970423080000ES, 19970423160000ES,↵

c. Submission of Reassignment Information—Case 2:

Primary provider, AEP, is notified of a sale/assignment of transmission service rights from ''Resell'' to ''cust''. The parameters of the new reservation are for 10MW on 4/23 for ''off-peak'' hours (00:00–06:00 and 22:00–24:00) on POR/POD CE–VP. Rseler is assigning rights to 10MW from a prior reservation for the CE–VP path for Daily Firm in amount of 50 MW on 4/23 under ASSIGNMENT__REF=7019 to Cust. AEP would submit the following information using the *transassign* Template to post this (re)sale. The only fields allowed in ''continuation'' records for the *transassign* Template are CAPACITY, START__TIME, STOP__TIME, REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME.

Even though there is a one-to-one correspondence between the segments of the new reservations and the reassignment of service from a prior reservation, it is entirely possible that a reservation spanning a single contiguous period would require multiple continuation records to convey reassignment information, and vice versa.

Fields for CUSTOMER__NAME and SELLER__NAME were used to convey user names for subsequent resolution of contact information from user registration.

Input:

VERSION=1.3↵
TEMPLATE=transassign↵

OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=2↵
COLUMN__HEADERS=CONTINUATION__FLAG, CUSTOMER__CODE, CUSTOMER__DUNS, PATH__NAME,
POINT__OF__RECEIPT, POINT__OF__DELIVERY, SOURCE, SINK, CAPACITY, SERVICE__INCREMENT, TS__CLASS,
TS__TYPE, TS__PERIOD, TS__SUBCLASS, START__TIME, STOP__TIME, OFFER__PRICE, SALE__REF, POSTING__NAME,
REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, REASSIGNED__STOP__TIME,
SELLER__COMMENTS↵
N, Resler, 456123789, Cust, 987654321, , CE, VP, , , 10, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A, 19970423000000ES, 19970423060000ES, 2.00, Joe Smith, Jane Doe , N, 19970422121354ES, , 7019, 10, 19970423000000ES, 19970423060000ES, Seller comments go here↵
Y, , , , , , , , , , 10, , , , , , 19970423220000ES, 19970424000000ES, , , , , , , 7019, 10, 19970423220000ES, 19970424000000ES ↵

Response:

REQUEST__STATUS=200↵
TIME__STAMP=19970422144520ES↵
VERSION=1.3↵
TEMPLATE=transassign↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=2↵
COLUMN__HEADERS=RECORD__STATUS, CONTINUATION__FLAG, ASSIGNMENT__REF, SELLER__CODE, SELLER__DUNS, CUSTOMER__CODE, CUSTOMER__DUNS, AFFILIATE__FLAG, PATH__NAME, POINT__OF__RECEIPT, POINT__OF__DELIVERY, SOURCE, SINK, CAPACITY, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS, START__TIME, STOP__TIME, OFFER__PRICE, SELLER__NAME, CUSTOMER__NAME, TIME__QUEUED, SALE__REF, REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME , REASSIGNED__STOP__TIME , SELLER__COMMENTS, ERROR__MESSAGE↵ 200, N, 8207, Rseler, 456123789, Cust, 987654321, N, , CE, VP, , , 10, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, 19970423000000ES, 19970423060000ES, 2.00, Joe Smith, Jane Doe , 19970422121354ES, , 7019, 10, 19970423000000ES, 19970423060000ES, Seller comments go here,↵
200, Y, , , , , , , , , , , 10, , , , , , 19970423220000ES, 19970424000000ES, , , , , 7019, 10, 19970423220000ES, 19970424000000ES,,↵

d. Query of Transmission Reservation Status:

The following typical response to a transstatus query might be delivered for 4/23 based on prior examples. Note that the only fields returned in ''continuation'' records are, CAPACITY, START__TIME , STOP__TIME , REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME , and REASSIGNED__STOP__TIME (price fields are debatable).

Input:

<appropriate query name/value pairs to return reservations for 4/23>

Response:

REQUEST__STATUS=200↵
TIME__STAMP=19970423040523ES↵
TEMPLATE=transstatus↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=11↵
COLUMN__HEADERS= CONTINUATION__FLAG, ASSIGNMENT__REF, SELLER__CODE, SELLER__DUNS, CUSTOMER__CODE, CUSTOMER__DUNS, AFFILIATE__FLAG, PATH__NAME, POINT__OF__RECEIPT, POINT__OF__DELIVERY, SOURCE, SINK, CAPACITY, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD,
TS__SUBCLASS, START__TIME , STOP__TIME, CEILING__PRICE, OFFER__PRICE, BID__PRICE, PRECONFIRMED, ANC__SVC__LINK, POSTING__REF, SALE__REF, REQUEST__REF, DEAL__REF, NEGOTIATED__PRICE__FLAG, STATUS, STATUS__COMMENTS, TIME__QUEUED, TIME__OF__LAST__UPDATE, PRIMARY__PROVIDER__COMMENTS, SELLER__COMMENTS, CUSTOMER__COMMENTS, SELLER__NAME, SELLER__PHONE, SELLER__FAX, SELLER__EMAIL, CUSTOMER__NAME, CUSTOMER__PHONE, CUSTOMER__FAX, CUSTOMER__EMAIL, REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME , REASSIGNED__STOP__TIME↵5
N, 8207, Rseler, 456123789, ACust, 987654321, N, , CE, VP, , , 10, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, 19970423000000ES, 19970423060000ES, 2.25, 2.00, 6.20, N,SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123); SP:(custR234); SU:(cust:R345), , , , , N, CONFIRMED, , 19970422121354ES, , TP Comments, Seller comments go here, Customer comments, Joe Smith, (888)-123–4567, (888)-123–1231, jsmith@xyz.com, Jane Doe, (999)-123–4567, (999)-123–8823, , 7019, 10, 19970423000000ES, 19970423060000ES ↵
Y, , , , , , , , , , , ,10, , , , , 19970423220000ES, 19970424000000ES, 7019, 10, 19970423220000ES, 19970424000000ES↵
N, 8234, Rseler, 456123789, ACust, 987654321, N, , CE, MECS, , , 35 DAILY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, 19970423000000ES, 19970423060000ES, 42.00, 24.50, 24.50, N,SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123); SP:(custR234); SU:(cust:R345), , , , , N, CONFIRMED, , 19970422121354ES, , Standard daily reservation, System Operator, Customer comments, Frank Orth, (999)-123–4567, (999)–123–1231, jsmith@xyz.com, Jane Doe, (999)-123–4567, (999)-123–8823, , 7019, 10, 19970423000000ES, 19970423060000ES ↵
N, 8235, AEP, 123456789, Cust, 987654321, N, , CE, AMPO, , , 5↵, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A, 19970423060000ES, 19970423070000ES, 2.50, 2.50, 6.20, N, SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123); SP:(custR234); SU:(cust:R345), , , , , N, CONFIRMED, , 19970422160523ES, , Profile verified, First piece, Customer comments, System Operator, (888)-123–4567, (888)-123–1231, jsmith@xyz.com, Jane Doe, (999)-123–4567, (999)-123–8823, , 7019, 10, 19970423000000ES, 19970423060000ES ↵
Y, , , , , , , , , , , ,10, , , , , , 19970423070000ES, 19970423080000ES, ↵
Y, , , , , , , , , , , ,15, , , , , ,19970423080000ES, 19970423200000ES, ↵
Y, , , , , , , , , , , ,10, , , , , , 19970423200000ES, 19970423210000ES, ↵
Y, , , , , , , , , , , ,5, , , , , 19970423210000ES, 19970423220000ES, ↵
N, 8236, Rseler, 456123789, Cust, 987654321, N, , CE, VP, , , 20, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, 19970424040000ES, 19970424160000ES, 2.00, 2.50, 6.20, N , , ,,, CONFIRMED, , 19970422160523ES, , Bid price refused, Negotiated

OFFER__PRICE accepted, Joe Smith, (888)-123–4567, (888)-123–1231, jsmith@xyz.com, Jane Doe, (999)-123–4567, (999)-123–8823, , 7019, 20, 19970423040000ES, 19970423080000ES↵
Y, 7880, 10, , , , , , 19970423080000ES, 19970423160000ES↵
Y, ,, , , , 7019, 10, , , , , , 19970423080000ES, 19970423160000ES↵

4.4.6 Examples of Negotiation of Price

4.4.6.1 Negotiation with Preconfirmation

a. The Customer submits a PRECONFIRMED transmission service request using the transrequest Template. Initially, the STATUS is set to QUEUED by the OASIS Node.

b. The Seller has the option of setting STATUS via the transsell Template to one of the following: INVALID, RECEIVED, STUDY, COUNTEROFFER, ACCEPTED, DECLINED, or REFUSED.

c. If the Seller sets STATUS to ACCEPTED (and, as required by Section 4.2.10.1i, the OASIS Node forces the Seller to set OFFER__PRICE equal to BID__PRICE as a condition to setting STATUS to ACCEPTED), the OASIS Node will immediately set STATUS to CONFIRMED.

d. The Customer may WITHDRAW request via transcust Template at any time up to point where the Seller sets STATUS to ACCEPTED.

e. Once the STATUS is CONFIRMED, the OFFER__PRICE officially becomes the terms of the reservation.

4.4.6.2 Negotiations without Preconfirmation

a. The Customer submits a transmission reservation request with the BID__PRICE less than the CEILING__PRICE via the transrequest Template. Initially the STATUS is set to QUEUED by the OASIS Node.

b. The Seller has the option of setting the STATUS via the transsell Template to one of the following: INVALID, RECEIVED, STUDY, ACCEPTED, DECLINED, COUNTEROFFER, or REFUSED. If INVALID (due to invalid entries in the request), DECLINED (due to the Seller determining that the proposed price is not acceptable and further negotiations are not desired), or REFUSED (due to the unavailability of the requested service) are set, the transmission reservation request is terminated.

c. If the Seller sets the STATUS to RECEIVED or STUDY, and determines that the BID__PRICE is too low, the Seller sets the OFFER__PRICE to the price desired, and sets the STATUS to COUNTEROFFER via the transsell Template.

d. The Customer agrees to the OFFER__PRICE, sets the BID__PRICE equal to the OFFER__PRICE, and sets the STATUS to CONFIRMED via the transcust Template.

e. The OFFER__PRICE with the STATUS of CONFIRMED locks in the terms of the reservation.

4.4.6.3 Multiple Step Negotiations

a. The Customer submits a transmission reservation request with the BID__PRICE less than the CEILING__PRICE via the transrequest Template. Initially the STATUS is set to QUEUED by the OASIS Node.

b. The Seller has the option of setting the STATUS via the transsell Template to one of the following: INVALID, RECEIVED, STUDY, ACCEPTED, DECLINED, COUNTEROFFER, or REFUSED. If INVALID, DECLINED, or REFUSED are set, the transmission reservation request is terminated.

c. The Seller determines that the BID__PRICE is too low, sets the OFFER__PRICE to the desired value, and sets the STATUS to COUNTEROFFER via the transsell Template.

d. The Customer responds to the new OFFER__PRICE with an updated BID__PRICE and sets the STATUS to REBID for re-evaluation by the Seller.

e. The Seller determines that the BID__PRICE now is acceptable, and sets the STATUS to ACCEPTED via the transsell Template. The transition to ACCEPTED state requires the OFFER__PRICE to be set to the BID__PRICE: accepting a reservation with an OFFER__PRICE different from BID__PRICE would require the STATUS be set to COUNTEROFFER rather than ACCEPTED (see item c).

f. The Customer agrees to the OFFER__PRICE and sets the STATUS to CONFIRM via the transcust Template.

g. The OFFER__PRICE with the STATUS as CONFIRMED locks in the terms of the reservation.

4.4.6.4 Negotiations Declined by Seller

a. The Customer submits a transmission reservation request with the BID__PRICE less than the CEILING__PRICE via the transrequest Template. Initially the STATUS is set to QUEUED by the OASIS Node.

b. The Seller has the option of setting the STATUS via the transsell Template to one of the following: INVALID, RECEIVED, STUDY, ACCEPTED, DECLINED, COUNTEROFFER, or REFUSED. If INVALID, DECLINED, or REFUSED are set, the transmission reservation request is terminated.

c. The Seller determines that the BID__PRICE is too low, sets OFFER__PRICE to his desired value, and sets STATUS to COUNTEROFFER via the transsell Template.

d. The Customer responds to OFFER__PRICE with updated BID__PRICE and sets the STATUS to REBID via the transcust Template for re-evaluation by Seller.

e. The Seller breaks off all further negotiations by setting the STATUS to DECLINED, indicating that the price is unacceptable and that he does not wish to continue negotiations.

4.4.6.5 Negotiations Withdrawn by Customer

a. The Customer submits a transmission reservation request with the BID__PRICE less than the CEILING__PRICE via the transrequest. Initially the STATUS is set to QUEUED by the OASIS Node.

b. The Seller has the option of setting the STATUS via the transsell Template to one of the following: INVALID, RECEIVED, STUDY, ACCEPTED, DECLINED, COUNTEROFFER, or REFUSED. If INVALID, DECLINED, or REFUSED are set, the transmission reservation request is terminated.

c. The Seller determines that the BID__PRICE is too low, sets the OFFER__PRICE to his desired value, and sets the STATUS to COUNTEROFFER via the transsell Template.

d. The Customer responds to the OFFER__PRICE with an updated BID__PRICE and sets the STATUS to REBID for re-evaluation by Seller.

e. The Seller determines that the BID__PRICE is still too low, sets the OFFER__PRICE to another value, and sets STATUS to COUNTEROFFER via the transsell Template.

f. The Customer breaks off all further negotiations by setting STATUS to WITHDRAWN (or the Customer/Sellercould go through additional iterations of REBID/COUNTEROFFER until negotiations are broken off or the reservation is CONFIRMED).

4.4.6.6 Negotiations Superseded by Higher Priority Reservation

a. The Customer submits a transmission reservation request with the BID__PRICE less than the CEILING__PRICE via the transrequest Template. Initially the STATUS is set to QUEUED by the OASIS Node.

b. The Seller has the option of setting the STATUS via the transsell Template to one of the following: INVALID, RECEIVED, STUDY, ACCEPTED, DECLINED, COUNTEROFFER, or REFUSED. If INVALID, DECLINED, or REFUSED are set, the transmission reservation request is terminated.

c. If the Seller determines that another reservation has higher priority and must displace this request, he sets the STATUS to SUPERSEDED and the negotiations are terminated.

d. However, if desired and permitted by the tariff, the Seller may set the STATUS of a request in any of these previous states (including COUNTEROFFER and ACCEPTED) to COUNTEROFFER with an OFFER__PRICE which could avoid the request being superseded, thus allowing the Customer the choice of being SUPERSEDED or accepting the proposed OFFER__PRICE.

4.5 Information Supported by Web Page

There shall be a Web page on each OASIS Node with information on requesting the text file of the tariffs and service agreements.

5. Performance Requirements

A critical aspect of any system is its performance. Performance encompasses many issues, such as security, sizing, response to user requests, availability, backup, and other parameters that are critical for the system to function as desired. The following sections cover the performance requirements for the OASIS Nodes .

5.1 SECURITY

Breaches of security include many inadvertent or possibly even planned actions. Therefore, several requirements shall be implemented by the TSIPs to avoid these problems:

a. Provider Update of TS Information: Only Providers, including Secondary Providers, shall be permitted to update their own TS Information.

b. Customer Input Only ASCII Text: TSIPs shall be permitted to require that inputs from Customers shall be filtered to permit only strict ASCII text (strip bit 8 from each byte).

c. Provider Updating Over Public Facilities: If public facilities are involved in the connection between a Provider and the OASIS Node, the Provider shall be able to update his TS Information only through the use of ASCII or through encrypted files.

d. User Registration and Login: All Users shall be required to register and login to a Provider's Account before accessing that Provider's TS Information.

e. User Passwords: All Users shall enter their personal password when they wish access to TS Information beyond the lowest Access Privilege.

f. Service Request Transactions: Whenever Service Request transactions are implemented entirely over OASIS Nodes, both an individual Customer password for the request, and an individual Provider password for the notification of acceptance shall be required.

g. Data Encryption: Sophisticated data encryption techniques and the ''secure id'' mechanisms being used on the public Internet shall be used to transfer sensitive data across the Internet and directly between OASIS Nodes.

h. Viruses: Since only data is being transmitted between the OASIS Nodes and the Users, viruses are unlikely to be passed between them. Therefore, TSIPs shall be responsible for ensuring that the OASIS Nodes are free from viruses, but need not screen data exchanges with Users for viruses.

i. Performance Log: TSIPs shall keep a log on User usage of OASIS resources.

j. Disconnection: TSIPs shall be allowed to disconnect any User who is degrading the performance of the OASIS Node through the excessive use of resources, beyond what is permitted in their Service Level Agreement.

k. Premature Access: The TSIP log shall also be used to ensure that Users who are affiliated with the Provider's company (or any other User) do not have access to TS information before it is publicly available.

l. Firewalls: TSIPs shall employ security measures such as firewalls to minimize the possibility that unauthorized users shall access or modify TS Information or reach into Provider or User systems. Interfaces through Public Data Networks or the Internet shall be permitted as long as these security requirements are met.

m. Certificates and Public Key Standards (optional): Use of alternative forms of login and authentication using certificates and public key standards is acceptable.

5.2 Access Privileges

Users shall be assigned different Access Privileges based on external agreements between the User and the Provider. These Access Privileges are associated with individual Users rather than just a company, to ensure that only authorized Users within a company have the appropriate access.

The following Access Privileges shall be available as a minimum:

a. Access Privilege Read-Only: The User may only read publicly available TS Information.

b. Access Privilege for Transactions: The Customer is authorized to transact Service Requests.

c. Access Privilege Read/Write: A Secondary Provider shall have write access to his own Provider Account on an OASIS Node.

5.3 OASIS Response Time Requirements

TSIPs can only be responsible for the response capabilities of two portions of the Internet-based OASIS network:

- The response capabilities of the OASIS Node server to process interactions with Users
- The bandwidth of the connection(s) between the OASIS Node server and the Internet.

Therefore, the OASIS response time requirements are as follows:

a. OASIS Node Server Response Time: The OASIS Node server shall be capable of supporting its connection(s) to Users with an average aggregate data rate of at least ''A'' bits per second. ''A'' is defined as follows:

$A = N * R$ bits/sec

Where:
N = 5% of registered Customers.
and
R = 28,800 bits/sec per Customer.

b. OASIS Node Network Connection Bandwidth: The bandwidth ''B'' of the OASIS Node connection(s) to the Internet shall be at least: $B = 2 * A$ bits/sec

c. Time to Meet Response Requirements: The minimum time responses shall be met within 1 month of User registration for any single new User. If more than 10 new Users register in one month, 2 months lead time shall be permitted to expand/upgrade the OASIS Node to meet the response requirements.

5.4 OASIS PROVIDER ACCOUNT AVAILABILITY

The following are the OASIS Provider Account availability requirements:

a. OASIS Provider Account Availability: The availability of each OASIS Provider account on an OASIS Node shall be at least 98.0% (downtime of about 7 days per year).

$$\% \text{ Availability} = \frac{(1 - \text{Cumulative Provider Account Downtime})}{\text{Total Time}} * 100$$

A Provider account shall be considered to be down, and downtime shall be accumulated, upon occurrence of any of the following:

1. One or more Users cannot link and log on to the Provider account. The downtime accumulated shall be calculated as:

Σ for affected Users of 1/n * (Login Time), which is the time used by each affected User to try to link and log on to the Provider account, and where ''n'' is the total number of Users actively registered for that Provider account.

2. One or more Users cannot access TS Information once they have logged on to a Provider account. The downtime accumulated shall be calculated as:

Σ for affected Users of 1/n * (Access Time), which is the time used by each affected User to try to access data, and where ''n'' is the total number of Users actively registered for that Provider.

3. A five (5) minute penalty shall be added to the cumulative downtime for every time a User loses their connection to a Provider's account due to an OASIS Node momentary failure or problem.

5.5 BACKUP AND RECOVERY

The following backup and recovery requirements shall be met:

a. Normal Backup of TS Information: Backup of TS Information and equipment shall be provided within the OASIS Nodes so that no data or transaction logs are lost or become inaccessible by Users due to any single point of failure. Backed up data shall be no older than 30 seconds. Single points of failure include the loss of one:

- Disk drive or other storage device
- Processor
- Inter-processor communications (e.g. LAN)
- Inter-OASIS communications
- Software application
- Database
- Communication ports for access by Users
- Any other single item which affects the access of TS Information by Users

b. Spurious Failure Recovery Time: After a spurious failure situation, all affected Users shall regain access to all TS Information within 30 minutes. A spurious failure is a temporary loss of services which can be overcome by rebooting a system or restarting a program. Permanent loss of any physical component is considered a catastrophic failure.

c. Long-Term Backup: Permanent loss of critical data due to a catastrophic failure shall be minimized through off-line storage on a daily basis and through off-site data storage on a periodic basis.

d. Catastrophic Failure Recovery: Recovery from a catastrophic failure or loss of an OASIS Node may be provided through the use of alternate OASIS Nodes which meet the same availability and response time requirements. TSIPs may set up prior agreements with other TSIPs as to which Nodes will act as backups to which other Nodes, and what procedure will be used to undertake the recovery. Recovery from a catastrophic failure shall be designed to be achieved within 24 hours.

5.6 Time Synchronization

The following are the time requirements:

a. Time Synchronization: Time shall be synchronized on OASIS Nodes such that all time stamps will be accurate to within ''0.5 second of official time. This synchronization may be handled over the network using NTP, or may be synchronized locally using time standard signals (e.g. WWVB, GPS equipment).

b. Network Time Protocol (NTP): OASIS Nodes shall support the Internet tool for time synchronization, Network Time Protocol (NTP), which is described in RFC–1305, version 3, so that Users shall be able to request the display and the downloading of current time on an OASIS Node for purposes of user applications which might be sensitive to OASIS time.

5.7 TS Information Timing Requirements

The TS Information timing requirements are as follows, except they are waived during emergencies.

a. TS Information Availability: The most recent Provider TS information shall be available on the OASIS Node within 5 minutes of its required posting time at least 98% of the time. The remaining 2% of the time the TS Information shall be available within 10 minutes of its scheduled posting time.

b. Notification of Posted or Changed TS Information: Notification of TS Information posted or changed by a Provider shall be made available within 60 seconds to the log.

c. Acknowledgment by the TSIP: Acknowledgment by the TSIP of the receipt of User Purchase requests shall occur within 1 minute. The actual negotiations and agreements on Purchase requests do not have time constraints.

5.8 TS Information Accuracy

The following requirements relate to the accuracy of the TS information:

a. TS Information Reasonability: TS information posted and updated by the Provider shall be validated for reasonability and consistency through the use of limit checks and other validation methods.

b. TS Information Accuracy: Although precise measures of accuracy are difficult to establish, Providers shall use their best efforts to provide accurate information.

5.9 Performance Auditing

The following are the performance auditing requirements:

a. User Help Desk Support: TSIPs shall provide a ''Help Desk'' that is available at least during normal business hours (local time zone) and normal work days.

b. Monitoring Performance Parameters: TSIPs shall use their best efforts to monitor performance parameters. Any User shall be able to read or download these performance statistics.

5.10 Migration Requirements

Whenever a new version of the S&CP is to be implemented, a migration plan will be developed for cutting over to the new version.

Appendix A—Data Element Dictionary

September 29, 1998

Version 1.3

Data dictionary element name	Alias	Field format: minimum characters {type of ASCII} maximum characters	Restricted values	Definition of data element
AFILIATE__Flag	AFFLAG	{alphanumeric} 3	Valid Values YES. NO.	Set to YES if customer is an affiliate of the provider.
ANC__ SERVICE__ TYPE.	ANCTYPE	1 {ALPHANUMERIC} 20	Valid types • EI • SP • SU • RV • RF • SC {Registered}	EI__Energy Imbalance. SP__Spinning Reserve. SU__Supplemental Reserve. RV__Reactive supply and Voltage Control. RF__Regulation and Frequency response. SC__Scheduling, system Control and Dispatch. {Registered} must be registered with www.tsin.com. and listed in the ANCSERV template.
ANC__SVC__LINK	ANCSVCLIN K	0 {ALPHANUMERIC} 300	Formatted string as follows: SC:(AA); RV: (AA); RF: (AA[:xxx[:yyy[:nnn]]]); EI: (AA[:xxx[:yyy[:nnn]]]); SP: (AA[:xxx[:yyy[:nnn]]]); SU: (AA[:xxx[:yyy[:nnn]]]); {Registered}: (AA[:xxx[:yyy [:nnn]]]).	The Method for linking ancillary services to a transmission service request. The provider and capacity of each ancillary service is identified using the formatted string: SC:(AA); RV: (AA); RF: (AA[:xxx[:yyy[:nnn]]]); EI: (AA[:xxx[:yyy[:nnn]]]); SP: (AA[:xxx[:yyy[:nnn]]]); SU: (AA[:xxx[:yyy[:nnn]]]); {Registered}: (AA[:xxx[:yyy[:nnn]]]) where AA is the appropriate. PRIMARY__PROVIDER__CODE, SELLER__CODE, or CUSTOMER__CODE, and represents the commpany providing the ancillary services. ''AA'' may be unspecified for ''xxx'' type identical to ''FT'', in which case the '':'' character must be present and precede the ''FT'' type. If multiple ''AA'' terms are necessary, then each ''AA'' groupin will be enclosed within parenthesis, with the overall group subordinate to the ANC__SVC__TYPE specified within parenthesis. and where xxx represents either: __''FT'' to indicate that the Customer will determine ancillary services at a future time, or. __''SP'' to indicate that the Customer will self-provide the ancillary services, or __''RQ'' to indicate that the Customer is asking the OASIS Node to initiate the process for making an ancillary services reservation with the indicated Provider or Seller on behalf of the Customer. The Customer must then continue the reservation process with the Provider or Seller. If the transmission services request is for preconfirmed service, then the ancillary services shall also be preconfirmed, or __''AR'' to indicate an assignment reference number sequence follows. The terms ''yyy'' and ''nnn'' are subordinate to the xxx type of ''AR''. yyy represents the ancillary services reservation number (ASSIGNMENT__REF) and nnn represents the capacity of the reserved ancillary services. Square brackets are used to indicated optional elements and are not used in the actual linkage itself. Specifically, the :yyy is applicable to only the ''AR'' term and the :nnn may optionally be left off if the capacity of ancillary services is the same as for the transmission services, and optionally multiple ancillary reservations may be indicated by additional (xxx[:yyy[:nnn]]) enclosed within parenthesis. If no capacity amount is indicated, the required capacity is assumed to come from the ancillary reservations in the order indicated in the codes, on an ''as-needed'' basis.
ANC__SVC REQ	ANCSVCREQ	0{ALPHANUMERIC} 100	EI:{M, R, O, }; SP:{ M, R, O, U}; SU:{, R, O, U}; RV:{ M, R, O, U}; RF:{M, R, O, U}; SC:{ M, R, O, U}; {registered]:{ M, R, O, U}.	Ancillary services required for a transmission services offering The appropriate letter {M, R, O, U} will be assigned to each of the six Proforma FERC ancillary services (See ANC__SERVICE__TYPE), where the letters mean the following: • (M) Mandatory, which implies that the Primary Provider must provide the ancillary service • (R) Required, which implies that the ancillary service is required, but not necessarily from the Primary Provider • (O) Optional, which implies that the ancillary service is not necessarily required, but could be provided • (U) Unknown, which implies that the requirements for the ancillary service are not known at this time
ASSIGNMENT__REF	AREF	1{ALPHANUMERIC}12	Unique value	A unique reference number assigned by a Transmission Information Provider to provide a unique record for each transmission or ancillary service request. A single transmission or ancillary service request will be over a contiguous time period, i.e. from a START TIME to a STOP TIME.
BID__PRICE	BIDPR	1{NUMERIC}5 + ''.'' +2{NUMERIC}2.	Positive number with 2 decimals	The current bid price of a Service in dollars and cents. Used by Customers to designate a price being bid.

CAPACITY	CAP	1{NUMERIC}12	Non-negative number in units of MW	Transfer capability is the measure of the ability of the interconnected electric system to readily move or transfer power from one area to another over all transmission lines (or paths) between those areas under specified system conditions. In this context ''area'' may be an individual electric system, powerpool, control area, subregion, or NERC region or portion thereof.
CAPACITY__ CURTAILED.	CAPCUR	1{NUMERIC}12	Non-negative number in units of MW	The amount of transfer capability curtailed by the Primary provider for emergency reasons.
CAPACITY__ SCHEDULED.	CAPSCH	0{NUMERIC}12	Non-negative number in units of MW	Transfer capability scheduled on each path.
CATEGORY	CAT	0{ALPHANUMERIC}25	Valid name from CATEGORY in LIST Template.	A name to be used to categorize messages. Valid names would include:, Want-Ad, Curtailment, Outage, Oasis Maint Notice.
CEILING__ PRICE	CEILPR	1{NUMERIC}5 + ''.''+2{NUMERIC}2.	Positive number with 2 decimals	Ceiling price of the Service as entered by the Transmission Provider.
COLUMN__ HEADERS	HEADERS	1{ALPHANUMERIC} Limited to all the elements names in one Template.	Headers surrounded with A and separated by commas. Limited to valid Template element names. Must use full element name and not alias..	Example: COLUMN__ HEADER=APATH__ NAME'', ''POINT__ OF__ RECEIPT'', ''POINT__OF__ DELIVERY'', ''SOURCE'',''SINK''.
CONTINUATION__ FLAG.	CONT	1{ALPHANUMERIC}1	''Y'' or ''N''	Indicates whether or not this record is a continuation from the previous record.
CONTROL__ AREA	AREA	1{ALPHANUMERIC}20	Valid name of a control area	A part of the power system with metered tie lines and capable of matching generation and load while meeting scheduled interchange. Location of Ancillary Services is my CONTROL AREA.
CURAILMENT OPTIONS.	CUROPT	0{ ALPHANUMERIC} 80	Free form text	Customer options, if any, to avoid curtailment.
CURTAILMENT__ PROCEDURES.	CURPROC	0{ ALPHANUMERIC}80	Free form text	Curtailment procedures to be followed in the event of a curtailment.
CURTAILMENT__ REASON.	CURREAS	0{ALPHANUMERIC}80	Free-form text	Reason for curtailment of service.
CUSTOMER__CODE	CUST	1{ALPHANUMERIC}6	Unique value, registered on TSIN.COM	Any entity (or its designated agent) that is eligible to view OASIS information, to execute a service agreement, and/or to receive transmission service.
CUSTOMER COMMENTS.	CUSTCOM	0{ALPHANUMERIC}80	Free-form text	Informative text.
CUSTOMER__DUNS	CUSTDUNS	9{NUMERIC}9	Unique DUNS number	Unique DUNS number for a Customer.
CUSTOMER__EMAIL	CUSTEMAIL	1{ALPHANUMERIC}25	Valid Internet E-Mail address	Internet E-Mail address of Customer contact person.
CUSTOMER__FAX	CUSTFAX	14{ALPHANUMERIC}20	Area code and telephone number, plus any extensions (aaa)–nnn–nnnn xnnnn.	FAX phone number of Customer contact person.
CUSTOMER__NAME	CUSTNAME	1{ALPHANUMERIC}25	Free form text	Name of Customer contact person.
CUSTOMER__PHONE	CUSTPHON	14{ALPHANUMERIC}20	Area code and telephone number, plus any extensions (aaa)-nnn-nnnn-xnnnn.	Telephone of Customer contact person.
DATA__ROWS	ROWS	1{NUMERIC}unlimited	Positive Number	Number of records (rows) of data exclusive of header information that are to be uploaded or downloaded in a file.
DATE__TIME__ EFFECTIVE.	TIMEEFCT	16{ALPHANUMERIC}16	Valid date and time in seconds yyyy+mo+dd+hh +mm+ss+tz	Date and time a message or service offer is in effect.
DEAL__REF	DREF	0{ALPHANUMERIC}12	Unique value, Assigned by Customer	The unique reference assigned by a Customer to two or more service purchases to identify each of them as related to others in the same power service deal. These requests may be related to each other in time sequence through a single Provider, or as a series of wheels through multiple Providers, or a combination of both time and wheels. The User uses the DEAL__REF to uniquely identify a combination of requests relating to a particular deal.
DISCRETION__ DESCRIPTION.	DISCDESC	0{ALPHANUMERIC}1000	Free form text	A detailed description of the discretion being reported.
ELEMENT__NAME	ELEMENT	1{ALPHANUMERIC}40	Valid Template element name	Template element name as indicated in data dictionary.
EMPLOYEE__NAME	EMPNAME	1{ALPHANUMERIC}25	Free form text	Name of person who is transferring from one position to another.
ERROR__MESSAGE	ERROR	1{ALPHANUMERIC}250	Free form text	Error message related to a RECORD__STATUS or REQUEST STATUS.
FORMER__COMPANY	FORMCO	1{ALPHANUMERIC}25	Free form text	Former company of the person who is transferring.
FORMER__ DEPARTMENT.	FORMDEPT	1{ALPHANUMERIC}25	Free form text	Former position held by the person who is transferring.
FORMER__POSITION	FORMPOS	1{ALPHANUMERIC}25	Free form text	Former position held by the person who is transferring.
INTERFACE__TYPE	INTERFACE	0{ALPHANUMERIC}1	I,E	Type of interface define by path: Internal (I) to a control area or External (E) to a control area.
LIST__ITEM	ITEM	1{ALPHANUMERIC}50	Free form text	Item from LIST, such as list of SELLER, list of PATH__NAME, list of POINT__OF__RECEIPT, list of POINT__ OF__ DELIVERY, list of SERVICE__ INCREMENT, list of TS__ CLASS, list of TS__ TYPE, list of TS__ PERIOD, list of TS__WINDOW, list of TS__ SUBCLASS, list of ANC__ SERVICE__ TYPE, list of NERC __ CURTAILMENT __ PRIORITY, list of OTHER__ CURTAILMENT__ PRIORITY, list of CATEGORY, list of TEMPLATE, list of LIST.
LIST__ ITEM__ DESCRIPTION.	ITEMDESC	0{ALPHANUMERIC}100	Free form text	A detailed description of the LIST__ITEM.

Data dictionary element name	Alias	Field format: minimum characters {type of ASCII} maximum characters	Restricted values	Definition of data element
LIST__NAME	LIST	1{ALPHANUMERIC}50	LIST, SELLER, PATH, POR, POD, SERVICE__ INCREMENT, TS__ CLASS, TS__ TYPE, TS__ PERIOD, TS__ SUBCLASS, ANC__ SERVICE__ TYPE, NERC__ CURTAILMENT__ PRIORITY, OTHER__ CURTAILMENT__ PRIORITY, CATEGORY, TEMPLATE.	List of valid names for each of the types of lists. The minimum set of lists defined must be implemented.
MESSAGE	MSG	1{ALPHANUMERIC}200	Free form text	An informative text message.
NEGOTIATED__PRICE__FLAG.	NGPRIFLG	0{ALPHANUMERIC}1	H,L, or blank	Set to H if OFFER__PRICE is higher than the currently posted price; set to L if OFFER__PRICE is lower than the currently posted price.
NERC__ CURTAILMENT__PRIORITY.	NERCURT	1{ALPHANUMERIC}1	Integer 1–7	One of the NERC seven curtailment priorities, documented in LIST template.
NEW__ COMPANY	NEWCO	1{ALPHANUMERIC}25	Free form text	New company of the person who is transferring.
NEW__DATA	NEWDATA	0{ALPHANUMERIC}200	Any valid date element value	For audit log, the new updated value of a Template data element after update.
NEW__DEPARTMENT	NEWDEPT	1{ALPHANUMERIC}25	Free form text	New department of the person who is transferring.
NEW__POSITION	NEWPOS	1{ALPHANUMERIC}25	Free form text	New position held by the person who is transferring.
OFFER__PRICE	OFFPR	1{NUMERIC}5 +''.'' + 2{NUMERIC}2.	Positive number with 2 decimals	The current offered price of a Service in dollars and cents. Used by the Seller to indicate the offering price.
OFFER__START__TIME.	OFFSTIME	0,16{ ALPHANUMERIC} 16.	Valid Date and Time to seconds: yyy + mo + dd + hh + mm + ss + tz	Start time of the window during which a Customer may request a discounted offer. If null, no restrictions on the start of the offering time is implied (other than tariff requirements).
OFFER__STOP__TIME.	OFFSPTIME	0,16{ ALPHANUMERIC} 16.	Valid Date and Time to seconds: yyy + mo + dd + hh + mm + ss + tz	Stop time of the window during which a Customer may request a discounted offer. (Expiration time of an offer). If null, no restrictions on the end of the offering time is implied (other than tariff requirements).
OLD__DATA	OLDDATA	0{ ALPHANUMERIC} 200	Any valid data element value	For audit log, the old value of a Template data element prior to being updated. This element is not applicable in the audit log for transaction events.
OPTIONAL__CODE	N/A	0{ ALPHANUMERIC} 25	Unique path name within region	OPTIONAL__CODE—25 chars, unique for Path. If used for directionality, then the first 12 characters shall represent POR, followed by >->, followed by 12 characters which shall represent POD. Used by PATH__NAME.
OTHER__ CURTAILMENT__ PRIORITY.	OTHCUR	O{ALPHANUMERIC}8	Free form text	Other than NERC curtailment priorities, such as regional curtailment priorities. Suggested format region+number, for example MAPP4, WSCC7. Documented in LIST template.
OUTPUT__FORMAT	FMT	4{ALPHANUMERIC}4	HTML, DATA	Format of response: HTML=hypertext markup language for presentation using a web browser.
PATH__ CODE	N/A	0{ALPHANUMERIC}12	Unique code for each path as defined by primary provider.	Unique code within a Region for each path. Used by PATH NAME.
PATH__NAME	PATH	5{ALPHANUMERIC}50	Unique value	The unique name assigned to a single transmission line or the set of one or more parallel transmission lines whose power transfer capabilities are strongly interrelated and must be determined in aggregate. These lines are typically described as being on a path, corridor or interconnection in some regions, or as crossing an interface or cut-plane in other regions. Multiple lines may be owned by different parties and require prorating of capability shares. The name is constructed from the following codes, with each code separated by ''/''. Trailing ''/'' may be omitted, if there are no values for OPTION__CODE and SPARE__CODE: REGION__CODE—2 chars, unique to OASIS System PRIMARY__ PROVIDER__ CODE—4 chars, unique within Region PATH__CODE—12 chars, unique for Primary Provider OPTIONAL__CODE—25 chars, unique for Path. If used for directionality, then the first 12 characters shall represent POR, followed by >->, followed by 12 characters which all represent POD. SPARE__CODE—3 chars.
POINT__ OF__ DELIVERY.	POD	1{ALPHANUMERIC}12	Unique value within Primary Provider	Point of Delivery is one or more point(s) of interconnection on the Transmission Provider's transmission system where capacity and/or energy transmitted by the Transmission Provider will be made available to the Receiving Party. This is used along with Point of Receipt to define a Path and direction of flow on that path. For internal paths, this would be a specific location(s) in the area. For an external path, this may be an area-to-area interface.
POINT__ OF__ RECEIPT.	POR	1{ ALPHANUMERIC} 12	Unique value within Primary Provider	Point of Receipt is one or more point(s) of interconnection on the Transmission Provider's transmission system where capacity and/or energy transmitted will be made available to the Transmission Provider by the Delivering Party. This is used along with Point of Delivery to define a Path and direction of flow on that path. For internal paths, this would be a specific location(s) in the area. For an external path, this may be an area-to-area interface.
POSTING__ NAME	POSTNAME	1{ ALPHANUMERIC} 25	Free form text	Name of person who is posting the information on the OASISNode
POSTING__REF	POSTREF	1{ALPHANUMERIC}12	Unique Value	Assigned by TSIP when Service or Message is received by TSIP. Unique number can be used by the user to modify or delete the posting.

PRECONFIRMED	PRECONF	2{ALPHA}3	YES or NO	Used by Customer to preconfirm sale in Template transrequest or ancrequest. If customer indicates sale is preconfirmed, then the response is YES and the customer does not need to confirm the sale.
PRICE__ UNITS	UNITS	0(ALPHA)20	Free form text	The units used for CEILING__ PRICE, OFFER__ PRICE, AND BID__ PRICE. Examples: $/MWhr, $/MWmonth
PRIMARY__ PROVIDER__ COMMENTS.	PPROVCOM	0{ ALPHANUMERIC} 80	Free-form text	Informative text. Usually entered by the Primary Provider through a back end system.
PRIMARY__ PROVIDER__ COD E.	PROVIDER	1{ ALPHANUMERIC} 4	Unique Code	Unique code for each Primary Provider. Used by PATH__NAME and in URL. Registered as part of URL at www.tsin.com.
PRIMARY__ PROVIDER__ DUN S.	PPROVDUNS	9{ NUMERIC} 9	Valid DUNS number	Unique code for each Primary. Provided by Dun and Bradstreet.
REASSIGNED__ CAPACITY.	RASCAP	1{ NUMERIC} 12	Postive number, cannot exceed previous assigned capacity.	The amount of transfer capability that was reassigned from one entity to another.
REASSIGNED__ REF	REREF	1{ ALPHANUMERIC} 12	Unique value	When customer makes a purchase of a transmission service that was posted for resale and a new ASSIGNMENT__REF number is issued the previous ASSIGNMENT__REF number now becomes the REASSIGNMENT__REF. Also used by SELLER when posting transmission or ancillary services for resale to show the previous assignment reference number. Also used by the customer when making a request to use FIRM service as SECONDARY over alternative points of delivery.
REASSIGNED__ START__ TIME.	RESSTIME	16{ ALPHANUMERIC} 16	Valid date and time to seconds: yyyy + mo + dd + hh + tz	Beginning date and time of the reassigned transmission service
REASSIGNED__ STOP__ TIME.	RESSPTIME	16{ ALPHANUMERIC} 16	Valid date and time to hour: yyyy + mo + dd + hh + tz	Date and time of the end of the transmission service that is reassigned to another user.
RECORD__ STATUS	RECSTATUS	1{ NUMERIC} 3	Error number	Record status indicating record was successful or error code if unsuccessful. 200=Successful
REGION__ CODE	N/A	1{ ALPHANUMERIC} 2	Unique within OASIS System	Defined for NERC regions, with the following defined: E__ ECAR. I__ MAIN. S__ SERC. T__ ERCOT. A__ MAPP. P__ SPP. M__ MAAC. N__ NPCC. W__WSCC. F__FRCC. Second character or digit reserved for subregion id as defined by each region.
REQUEST__ REF	RREF	0{ ALPHANUMERIC} 12	Unique value	A reference uniquely assigned by a Customer to a request for service from a Provider.
REQUEST__ STATUS	RSTATUS	1{ NUMERIC} 3	Error number	Message status indicating message was successful (if all RECORD__STATUS show success) or error code if any RECORD__STATUS showed unsuccessful. 200=Successful.
RESPONSE__ TIME__ LIMIT.	RESPTL	16{ ALPHANUMERIC} 16	Valid date and time to seconds: yyyy + mo + dd + hh +mm + ss + tz.	Date and time to seconds by when a response must be received from a Customer.
RESPONSIBLE__ PARTY__ NAME.	PARTNAME	1{ ALPHANUMERIC} 25	Free form text	The name of the person responsible for granting the discretion.
RETURN__ TZ	TZ	2{ ALPHANUMERIC} 2	AD, AS, PD, PS, ED, ES, MD, MS, CD, CS, UT.	A time zone code, indicating the base time zone, and whether daylight saving time is to be used. This field may be set by a Customer in a query. Returned date and time data is converted to this time zone.
SALE__ REF	SREF	0{ ALPHANUMERIC} 12	Unique value	Identifier which is set by seller (including Primary Provider) when posting a service for sale.
SELLER__ CODE	SELLER	1{ ALPHANUMERIC} 6	Unique value	Organization name of Primary Provider or Reseller.
SELLER__ COMMENTS.	SELCOM	0{ ALPHANUMERIC} 80	Free-form text	Informative text provided by the Seller.
SELLER__ DUNS	SELDUNS	9{ Numeric} 9	Valid DUNS number	Unique Date Universal Numbering System provided by Dun and Bradstreet. Code for a Primary Provider or Seller.
SELLER__ EMAIL	SELEMAIL	5{ ALPHANUMERIC} 60	Valid network reference	E-mail address of Seller contact person.
SELLER__ FAX	SELFAX	14{ ALPHANUMERIC} 20	Area code and telephone number, plus any extensions Example: (aaa)–nnn–nnnn xnnnn.	The fax telephone number for contact person at Seller.
SELLER__ NAME	SELNAME	1{ ALPHANUMERIC} 25	Free form text	The name of an individual contact person at the Seller.
SELLER__ PHONE	SELPHONE	14{ ALPHANUMERIC} 20	Area code and telephone number, plus any extensions (aaa)–nnn–nnnn xnnnn.	The telephone number of a contact person as a Seller.
SERVICE__ DESCRIPTION.	SVCDESC	0{ ALPHANUMERIC} 200	Free-form text	Information regarding a service.
SERVICE__ INCREMENT.	SRVINCR	1{ ALPHANUMERIC} 8	Valid increments • HOURLY • Daily • Weekly • Monthly • Yearly • { Registered}	The transmission service increments provided. Five are pre-defined, while additional increments can be used if they are registered on TSIN.COM and shown in the Provider's LIST template.
SERVICE__ NAME	SVCNAME	1{ ALPHANUMERIC} 25	Free-form text	Name of service affected by the discretionary action.
SERVICE__ TYPE	SVCTYPE	1{ ALPHANUMERIC} 25	Free-form text	Type of service affected by the discretionary action.
SINK	SINK	0{ ALPHANUMERIC} 14	Valid area name	The area in which the SINK is located.
SOURCE	SOURCE	0{ ALPHANUMERIC} 14	Valid area name	The area in which the SOURCE is located.

September 29, 1998—Continued

Version 1.3

Data dictionary element name	Alias	Field format: minimum characters {type of ASCII} maximum characters	Restricted values	Definition of data element
SPARE__ CODE	N/A	0{ ALPHANUMERIC} 3	Defined by region	Spare code to be used at a later time. Used by PATH__NAME.
STANDARDS__ OF__ CONDUCT__ ISSUES.	STDISSUE	0{ ALPHANUMERIC} 800	Free-form text	Issues that were in violation of the FERC Standards of Conduct. This text may include a reference pointer to a more detailed description.
START__ TIME	STIME	16{ ALPHANUMERIC} 16	Valid Date and Time to seconds:	Start date and clock time of a service. When used as a query variable, it requires the return of all items whose
			yyyy + mo + dd + hh + mm + ss + tz	Stop time is after the Start time. Note that for some Templates when used as a query variable the time may be only valid up to the hour, day or month. If more data is given than is valid, the hour, day or month will be used to make the date and time inclusive, i.e. date or time will be truncated to valid hour, day or month.
START__ TIME__ POSTED.	STIMEP	16{ ALPHANUMERIC} 16	Valid Date and Time to seconds: yyyy + mo + dd + hh + mm + ss + tz	Query parameter to indicate all the records are to be retrieved that were posted on or after this time.
START__ TIME__ QUEUED.	STIMEQ	16{ ALPHANUMERIC} 16	Valid Date and Time to seconds: yyyy + mo + dd + hh + mm + ss + tz	Start date and clock time of a service, used for requesting transactions queued after this time.
STATUS	STATUS	5{ ALPHANUMERIC} 25	Valid field (QUEUED, INVALID, RECEIVED, STUDY, REBID, COUNTEROFFER, DECLINED, SUPERSEDED, ACCEPTED, REFUSED, CONFIRMED, WITHDRAWN, DISPLACED, ANNULLED, RETRACTED).	QUEUED=initial status assigned by TSIP on receipt of ''customer services purchase request''. INVALID=assigned by TSIP or Provider indicating an invalid field in the request, such as improper POR, POD, source, sink, etc. (Final state). RECEIVED=assigned by Provider or Seller to acknowledge QUEUED requests and indicate the service request is being evaluated, including for completing the required ancillary services. STUDY=assigned by Provider or Seller to indicate some level of study is required or being performed to evaluate service request. REFUSED=assigned by Provider or Seller to indicate service request has been denied due to availability of transmission capability. SELLER__COMMENTS should be used to communicate details for denial of service. (Final state). COUNTEROFFER=assigned by Provider or Seller to indicate that a new OFFER__ PRICE is being proposed. REBID=assigned by Customer to indicate that a new BID__PRICE is being proposed. SUPERSEDED=assigned by Provider or Seller when a request which has not yet been confirmed is displaced by another reservation request. (Final state). ACCEPTED=assigned by Provider or Seller to indicate the service request at the designated OFFER__PRICE has been approved/accepted. If the reservation request was submitted PRECONFIRMED, the TSIP shall immediately set the reservation status to CONFIRMED. Depending upon the type of ancillary services required, the Seller may or may not require all ancillary service reservations to be completed before accepting a request. DECLINED=assigned by the Provider or Seller to indicate that the BID__PRICE is unacceptable and that negotiations RETRACTED = assigned by Provider or Seller when the Customer fails to confirm or withdraw an accepted updated offer within the required time period. (Final state). WITHDRAWN = assigned by the Customer at any point in request evaluation to withdraw the request from any further action. (Final state). CONFIRMED = assigned by the Customer in response to the Provider or Seller posting ''ACCEPTED'' status, to confirm service. Once a request has been ''CONFIRMED'', a transmission service reservation exists. (Final state, unless overridden by DISPLACED or ANNULLED state). DISPLACED = assigned by Provider or Seller when a ''CONFIRMED'' reservation from a Customer is displaced by a longer term request, and the Customer has exercised right of first refusal (i.e. refused to match terms of new request). (Final state). ANNULLED = assigned by Provider or Seller when, by mutual agreement with the Customer, a confirmed reservation is to be voided. (Final state).
STATUS__ COMMENTS.	STACOM	0{ ALPHANUMERIC} 80	Free form text	Informative text.
STATUS__ NOTIFICATION.	STATNOT	0{ ALPHANUMERIC} 200	http://URL: portnumber/ directory/cgi script/ query parameters or. Mailto: <e-mail address>	The STATUS__NOTIFICATION data element shall contain the protocol field ''http:'', which designates the notification method/protocol to be used, followed by all resource location information required; the target domain name and port designations shall be inserted into the notification URL based on the Customer's Company registration information. The resource location information may include directory information, cgi script identifiers and URL encoded query string name/value pairs as required by the Customer's application. or mailto and email address for the status information the Customer wants to receive upon a change in STATUS of transstatus, or ancstatus

STOP__ TIME	SPTIME	16{ ALPHANUMERIC} 16	Valid date and time yyyy + mo + dd + hh +mm +ss +tz	Stop date and clock time. When used as a query variable, it requires the return of all items which start before the Stop time. Note that for some Templates when used as a query variable the time may be only valid up to the hour, day or month. If more data is given than is valid, the hour, day or month will be used to make the date and time inclusive, i.e. date or time will be increased to include STOP TIME.
STOP__ TIME__ POSTED.	STPTIMEP	16{ΚΑΛΠΗΑΝΘΜΕΡΙΨ} 16.	Valid Date and Time to seconds: yyyy + mo + dd +hh + mm +ss +tz	Query parameter to indicate all the records are to be retrieved that were posted on or before this time.
STOP__ TIME__ QUEUED.	SPTIMEQ	16{ ALPHANUMERIC} 16	Valid Date and Time to seconds: yyyy + mo + dd + hh + mm + ss + tz	Stop date and clock time, used for requesting transactions queued before this time.
SUBJECT	SUBJ	0{ALPHANUMERIC} 80 ..	Free form text	Informative text used to summarize a topic in a message.
TARIFF__ REFERENCE.	TARIFF	0{ ALPHANUMERIC} 150	Free form text. Name and description of Tariff	Tariffs approved by FERC.
TEMPLATE	TEMPL	1{APHANUMERIC}20	Valid name of Template from Section 4.3 or from LIST Template.	The name of a logical collection DATE__ELEMENTS in a User's interaction with an OASIS Node.
TIME__ OF __LAST__UPDATE.	TLUDATE	16{APHANUMERIC} 16 ..	Valid date and time to seconds: yyy + mo + dd + hh = + mm + ss + tz	Date and time to seconds that data was last updated. May be used to search data updated since a specific point in time.
TIME__POSTED	TIMEPST	16{APHANUMERIC} 16 ..	Valid Date and Time to seconds: yyy + mo + dd + hh + mm + ss + tz	Date and time a message is posted.
TIME__QUEUED	TIMEQ	16{APHANUMERIC} 16 ..	Valid Date and Time to seconds:3 yyy + mo + dd + hh + mm + ss + tz	Date and time that the request was queued.
TIME__STAMP	TSTAMP	16{APHANUMERIC} 16 ..	Valid date and Time to seconds yyy + mo + dd + hh + mm + ss + tz	Time data is created.
TS__CLASS	TSCLASS	1{APHANUMERIC} 20	Valid classes: • FIRM • NON–FIRM • TTC • SECONDARY • Registered}	The transmission service classes provided. Four are pre-defined, while additional classes can be used if they are registered on TSIN.COM and shown in the Provider's LIST template page. SECONDARY is defined as alternate points of receipt or delivery for POINT__TO__POINT, or as nondesignated resources for NETWORK service.
TS__PERIOD	TSPER	1{APHANUMERIC} 20	Valid periods ON__PEAK OFF__PEAK FULL__PERIOD {Registered}	The transmission service periods provided. Three are pre-defined, while additional periods can be used if they are registered on TSIN.COM and shown in the Provider's LIST template.
TS__SUBCLASS	TSSUBC	0{ALPHANUMERIC}	Free Form	The transmission service subclasses provided. These are freefrom.
TS__TYPE	TSTYPE	1{APHANUMERIC} 20	Valid types • POINT__ TO__ POINT • NETWORK • ACT • {Registered}	The transmission service types provided. Three are pre-defined, while additional types can be used if they are registered on TSIN.COM and shown in the Provider's LIST template.
TS__WINDOW	TSWIND	1{APHANUMERIC} 20	Valid windows • FIXED • SLIDING • EXTENDED • {Registered}	The transmission service windows provided. Three are pre-defined, while additional windows can be used if they are registered on TSIN.COM and shown in the Provider's LIST template.
TZ	TZ	2{APHANUMERIC} 2	Valid time zone and indication whether daylight savings time is to be used.	Time zones: Atlantic time=AD, AS. Eastern time=ED, ES Central time=CD, CS Mountain time=MD, MS. Pacific time=PD, PS. Universal time=UT.
VALID__FROM__TIME	VALFTIME	16{PHANUMERIC} 6	Valid date and time yyy + mo + dd + hh + mm + ss + tz	Date and time after which the message is valid.
VALID__TO__TIME	VALTTIME	16{PHANUMERIC} 16	yyy + mo + dd + hh. + mm + ss + tz	Date and time before which the message is valid.
VERSION	VER	1{APHANUMERIC} 6	Range of 1.0 to 9999.9	Specifies which version of the OASIS Standards and Communication Protocol to use when interpreting the request.

Open Access Same-Time Information System and Standards of Conduct
Docket No. RM95–9–003
(Issued September 29, 1998)

BAILEY, Commissioner, *concurring*

Several months ago, I dissented from the decision to require the unmasking and public posting of source and sink information on the OASIS. *See Open Access Same-Time Information System and Standards of Conduct,* 83 FERC ¶ 61,360 (1998), *reh'g pending.* Because today's decision to delay for two months the obligation to post source and sink information on the OASIS is better than no delay at all (though not good as a decision to delay indefinitely the posting obligation), I respectfully *concur* with today's order.

Vicky A. Bailey,

Commissioner.

[FR Doc. 98–26678 Filed 10–7–98; 8:45 am]

BILLING CODE 6717–01–P

Federal Register

Thursday
October 8, 1998

Part IV

Securities and Exchange Commission

17 CFR Parts 275 and 279
Investment Adviser Year 2000 Reports; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 275 and 279

[Release No. IA–1769; IC–23476; File No. S7–20–98]

RIN 3235–AH45

Investment Adviser Year 2000 Reports

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a new rule and form under the Investment Advisers Act of 1940 that requires most registered investment advisers to file with the Commission reports regarding their plans for addressing the Year 2000 computer problem. The reports will provide the Commission and investors with information regarding advisers' plans to address the Year 2000 problem.

EFFECTIVE DATE: The rule and form will become effective November 13, 1998. See section III.A for filing dates.

FOR FURTHER INFORMATION CONTACT: Carolyn-Gail Gilheany, Senior Counsel, or Arthur B. Laby, Special Counsel, at (202) 942–0716, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 5–6, Washington, D.C. 20549. The Commission has placed a list of frequently asked questions and answers about Form ADV–Y2K on the Commission's Internet web site. The list is located at http://www.sec.gov/rules/othern/advfaq.htm. The Commission staff will update these questions and answers from time to time. The Commission urges interested persons with access to the Internet to review these questions and answers before contacting Commission staff.

SUPPLEMENTARY INFORMATION: The Commission today is adopting rule 204–5 (17 CFR 275.204–5) and Form ADV–Y2K (17 CFR 279.9) under the Investment Advisers Act of 1940 (15 U.S.C. 80b) (''Advisers Act'').

I. Executive Summary

The Commission is conducting a review of U.S. public companies and the U.S. securities industry to examine how they will address the Year 2000 computer problem.[1] As part of this initiative, we recently adopted rule changes to require certain broker-dealers and transfer agents to file reports with the Commission on Year 2000 readiness.[2] Today the Commission is adopting a new rule and form that requires most investment advisers registered with the Commission under the Advisers Act to file reports on their Year 2000 readiness. The reports will permit us to better evaluate the preparedness of advisers for the Year 2000 problem, identify the advisers that pose a significant risk to their clients and shareholders, and evaluate the adequacy of disclosure made by advisers regarding the Year 2000 problem. This rule is the most recent in a series of actions we have taken in an effort to assure that the securities industry is prepared for the computer challenges presented by the Year 2000 problem.

II. Background

Investment advisers (''advisers'') are responsible for managing approximately $15 trillion in assets, including over $5 trillion in mutual funds.[3] Advisers manage these assets by using both internal computer systems and external systems that connect them with the markets, service providers and clients. The failure of advisers' computer systems could threaten their ability to manage client assets, communicate information to clients and comply with the federal securities laws.[4] In the case of investment companies, a breakdown in their systems could interfere with the day-to-day management of fund portfolios, delay shareholder transactions and compromise recordkeeping and other compliance systems.

The Commission has taken several measures to encourage advisers and funds to timely address the challenges posed by the year 2000 problem. Since 1996, our examiners have raised year 2000 concerns during adviser and investment company examinations, and recently our staff has begun a series of examinations that focus on plans to address the year 2000 problem. Last year, Chairman Levitt sent a letter to all registered advisers urging them to prepare for the year 2000 problem,[5] and in July 1998, we published an interpretive release to provide guidance on the disclosure obligations of advisers, funds and others.[6] Last month, we announced a moratorium on the implementation of new SEC rules that require major reprogramming of systems by, among others, investment advisers and funds.[7] The moratorium is designed to facilitate and encourage securities industry participants to allocate sufficient resources to remediation of the year 2000 problem.

On June 30, 1998, the Commission issued a release proposing rule 204–5 (''Proposing Release'') that would require most advisers registered with the Commission to submit a form, Form ADV–Y2K, on their preparedness for the year 2000 problem.[8] In response to the proposal, we received 24 comment letters from professional and trade organizations and investment advisers. Nearly all of the commenters supported the proposal, which we are adopting largely as proposed.

III. Discussion

A. Rule 204–5

New rule 204–5 requires each investment adviser that is registered with the Commission and (i) has at least $25 million of assets under management,[9] or (ii) is an adviser to an investment company registered under the Investment Company Act of 1940,[10] to file Form ADV–Y2K with the Commission.[11] The form must be filed

[1] On January 1, 2000, certain computer systems may function erroneously if modifications have not been made, because the systems may read the date 01/01/00 as being January 1, 1900, or another incorrect date.

[2] Reports to be Made by Certain Brokers and Dealers, Exchange Act Release No. 40162 (July 2, 1998) [63 FR 37668 (July 13, 1998)]; Year 2000 Readiness Reports To Be Made by Certain Transfer Agents, Exchange Act Release No. 40163 (July 2, 1998) [63 FR 37688 (July 13, 1998)]. Under these rules, broker-dealers are required to file Form BD–Y2K; transfer agents are required to file Form TA–Y2K.

[3] *See* The Investment Company Institute, Current Statistical Releases, Trends in Mutual Fund Investing, April 1998, available at <http://www.ici.org/facts__figures/trends__0298html>.

[4] *See* Tracey Longo, The Millennium Time Bomb, 28 Financial Planning 180 (Sept. 1998).

[5] Letter from Chairman Levitt, dated November 13, 1997, available at <http://www.sec.gov/news/press/97–102.txt>.

[6] Statement of the Commission Regarding Disclosure of year 2000 Issues and Consequences by Public Companies, Investment Advisers, Investment Companies, and Municipal Securities Issuers, Securities Act Release No. 7558 (July 29, 1998) [63 FR 41394 (Aug. 4, 1998)] (Statement on year 2000 Disclosure).

[7] Commission Statement of Policy on Regulatory Moratorium to Facilitate the year 2000 Conversion, Investment Advisers Act Release No. 1949 (Aug. 27, 1998) [63 FR 47051 (Sept. 3, 1998)].

[8] Investment Adviser year 2000 Reports, Investment Advisers Act Release No. 1728 (June 30, 1998) [63 FR 36632 (July 7, 1998)].

[9] The amount of assets under management for purposes of the rule is the amount reported on Schedule I of the adviser's most recently filed Form ADV (17 CFR 279.1), or the most recent amendment to its Form ADV.

[10] 15 U.S.C. 80a.

[11] Generally only advisers that have at least $25 million of assets under management or that advise a registered investment company can register with the Commission. *See* section 203A(b) of the Advisers Act (15 U.S.C. 80b–3a(b)). Advisers in the states that do not regulate investment advisers, advisers with principal places of business in foreign countries, and other advisers exempt by SEC rule from the $25 million assets under management limitation, however, may register with the

with the Commission no later than December 7, 1998, and an updated form must be filed no later than June 7, 1999. Each filing must reflect the adviser's preparedness for the year 2000 problem no earlier than 15 days before the respective filing deadline.

Shortly after publication of this release, we will mail a copy of Form ADV–Y2K to each registered adviser. The form mailed to each adviser will contain certain pre-printed information, such as the adviser's name and registration number. The form (without the pre-printed information) also is available on the Commission's web site, and advisers may down-load the form and complete it on their computers, print the completed form, and return it to the Commission.[12] The Commission asks advisers to return the Form ADV–Y2K they receive in the mail containing the pre-printed information or the version down-loaded from the web-site.[13] An authorized person of the adviser, who participates in managing or directing the adviser's affairs, must sign the report.[14] Form ADV–Y2K, like all forms filed with the Commission by investment advisers, will be publicly available.[15] Shortly after the Commission receives the forms, we will make data from the forms available on the Commission's web site.[16] In addition, the Commission or its staff, after reviewing the forms and other pertinent information, may make findings or conclusions, or compile information from filings by individual firms, and make firm-specific, aggregate or derivative information available to the public, Congress or members of the securities industry.

Four commenters urged us to exempt from the rule advisers that also are SEC-registered broker-dealers or transfer agents, or affiliates of banks. These commenters argued that since these advisers are required to file similar reports with us or with the bank regulatory agencies, there is no reason to require duplicative reports. While the Commission appreciates the need to avoid imposing unnecessary paperwork on investment advisers, we are not adopting these commenters' suggestions. An adviser's response to the same or similar questions in Form BD–Y2K, Form TA–Y2K [17] or similar forms filed with the banking regulatory agencies, may (and in some cases should) be different because of the different focus of those reports. To the extent there is overlap among the reports, the burdens imposed by completing Form ADV–Y2K should not be significant since previous responses can simply be restated in Form ADV–Y2K (if they remain accurate).[18]

B. Form ADV–Y2K

New Form ADV–Y2K has two parts. The first part must be completed by all advisers required to file the form, while the second part must be completed only by advisers to investment companies registered with the Commission under the Investment Company Act.

1. Part I: Information Required From All Advisers

Part I of the form contains 13 questions about an adviser's plans to address the year 2000 problem with respect to all of its clients.[19] The questions are in multiple choice or fill-in-the-blank format; all advisers filing the form must respond to each question. Form ADV–Y2K asks for information in several areas: (1) the adviser's year 2000 compliance plan; (2) resources and personnel to address year 2000 issues; (3) systems that may be affected;[20] (4) the adviser's progress in addressing year 2000 issues; (5) contingency plans; (6) the readiness of third parties; and (7) whether, and the means by which, the adviser takes into consideration the year 2000 preparedness of issuers of securities the adviser recommends to clients.[21]

Several questions elicit information on specific aspects of the adviser's plans to address the year 2000 problem and when those plans will be complete.[22] This information is important so that the Commission can learn not only about the steps an adviser is taking to prepare, but also when it expects to complete those steps. Several commenters expressed concern that some of these questions, as proposed, appeared to prescribe specific steps that all advisers must take in order to prepare for the year 2000 problem.[23] We have revised the wording of these questions to clarify that the Advisers Act requires no particular steps to be taken by an adviser to prepare for the year 2000 problem.[24] The Commission highly recommends, however, that all advisers consider the six steps of preparation the Commission has

Commission. *See* rule 203A–2 under the Advisers Act (17 CFR 275.203A–2).

[12] The SEC's web site is <www.sec.gov>. The Commission also is making available, through its web site, the software required to access the form.

[13] The Commission had considered requiring advisers to file by fax, but we are not doing so because we are unsure about the ability of the technology we had planned to use to accept the expected volume of filings.

[14] The adviser is not required to engage an independent public accountant to attest to the report. The Commission had proposed not to require an auditor attestation for Form ADV–Y2K, and the commenters agreed that the auditor's attestation was not necessary.

[15] *See* section 210(a) of the Advisers Act (15 U.S.C. 80b–10(a)). One commenter requested that the forms not be made public. The Commission believes it is important that investors be able to access information about their advisers' preparedness for the year 2000 problem, just as they can access similar information about broker-dealers. See Exchange Act Rule 17a–5(e)(5)(v) (17 CFR 240.17a–5(e)(5)(v)).

[16] The information will be available at <http://www.sec.gov/rules/othern/advfaq.htm>. Several commenters expressed concern that their responses to certain questions may appear incomplete in the absence of a more detailed explanation. To address this concern, the Commission will place on its web site a statement explaining that the information on the form may be incomplete, and that it only reflects developments as of the date the form was submitted to the SEC. The statement will urge interested readers to seek more complete information from the adviser about its preparedness for the year 2000 problem.

[17] Reports to be Made by Certain Brokers and Dealers, *supra* note 2; year 2000 Readiness Reports To Be Made by Certain Transfer Agents, *supra* note 2.

[18] We are also not adopting one commenter's suggestion that advisers organized in a holding company structure be permitted to file a single report on the year 2000 preparedness of the holding company. Such an approach would make it very difficult for us and members of the public reviewing the data to distinguish between those advisers who were not required to file Form ADV–Y2K from those that failed to comply with the filing requirement. Advisers that are members of a holding company with integrated computer systems should be able simply to use identical responses in each of the reports filed with the Commission.

[19] The questions in Part I of Form ADV–Y2K are generally the same as the questions in Part I of Form BD–Y2K and Form TA–Y2K.

[20] There are no universal definitions for mission-critical systems; it is up to each adviser to determine which of its systems are mission-critical.

[21] *See* Question 11 to Part I of Form ADV–Y2K. The Commission has added this question in light of the important role advisers can play in identifying issuers and securities that may be adversely affected by year 2000 problems, and protecting their clients from losses as a result. The Commission recognizes, however, that some advisers have investment styles that make consideration of year 2000 preparedness of issuers irrelevant. For example, some advisers' advice is limited to the advisability of investing in broad asset classes (*e.g.*, market timers); some manage accounts that track indexes; and others use ''technical analysis'' and base their advice on market trends, but not on the fundamentals of particular issuers. These advisers would respond to this item by checking the ''Not Applicable'' response. An adviser should only check the ''Not Applicable'' box if it is an appropriate response with respect to all of its accounts.

[22] *See* Questions 5, 7–10 to Part I of Form ADV–Y2K.

[23] Also, two commenters raised questions about the requirement in the instructions to Part I that advisers include information about their affiliates that are not required to file the form. The Commission has clarified that advisers should include information about SEC registered affiliates that are not required to complete the form, i.e., those that have less than $25 million of assets under management, but are permitted to register under an exemption.

[24] *See* Questions 7–8 to Part I of Form ADV–Y2K. Under the Advisers Act, an adviser that is unable, or uncertain about its ability, to address year 2000 issues, would be required to disclose this information, if material, to its clients. See Statement on year 2000 Disclosure, *supra* note 6.

identified that advisers and funds can take to prepare for the year 2000 computer problem.[25]

An adviser that has computer systems for which it has made different amounts of progress in preparing for the year 2000 must respond to questions regarding its year 2000 preparedness based on a ''qualitative average'' of its systems.[26] This qualitative average requires an adviser to give greater weight to mission-critical systems than to other of its systems. Commenters generally preferred this approach to an alternative under which the adviser's progress with respect to each system would be separately reported.

Responses to several questions in Form ADV–Y2K depend on obtaining information about third party systems that communicate with the adviser's systems. Several commenters asserted that advisers should be required to report only on their own readiness for the year 2000 problem, not on the readiness of third parties, especially since the adviser is required to execute the form. Because many advisers rely extensively on the computer systems of third parties in their day-to-day business, eliminating these questions would reduce substantially the utility of these reports and yield an incomplete picture of readiness for the year 2000. The Commission, therefore, has not eliminated these questions from the form.[27]

2. Part II: Information Required From Advisers to Investment Companies

Part II of Form ADV–Y2K must be completed by advisers to a registered investment company or group of investment companies. Part II is designed to elicit information about the year 2000 readiness of the investment companies (''funds''). Only advisers that are sponsors or administrators of a fund complex must complete Part II.[28] If no sponsor or administrator of the complex is a registered adviser, at least one adviser to a fund (or series) in the complex must submit a report for the fund complex, if the adviser is registered with the Commission.[29]

The Commission proposed to require each adviser to a fund complex to report for the entire complex unless another adviser is reporting on behalf of the fund, and explained that this approach would permit multiple advisers to a single fund complex to decide among themselves which adviser would file the report.[30] We received numerous objections to this proposal from advisers to funds. Many argued that advisers or sub-advisers that do not sponsor funds are not in a position to report on a fund's preparation for the year 2000 problem. In response, we have added a note clarifying that the adviser that is the sponsor or administrator of a fund complex should file the report.[31] In some cases, however, the sponsor or administrator of a fund complex is not a registered investment adviser, and no adviser otherwise might be required to file Part II for that fund complex. Therefore, in such cases (which the Commission believes to be few) at least one of the advisers to the fund complex must file Part II of Form ADV–Y2K on behalf of the complex.[32]

Commenters on the Proposed Form expressed concern that some of the questions in Part II contained assumptions that funds rather than third party service providers (such as advisers or administrators) were engaged in year 2000 planning and remediation activities. We have revised several questions and deleted others to make clear that the form is not based on these assumptions. We also have added an instruction at the suggestion of one commenter to clarify that advisers, in responding to questions in Form ADV–Y2K, should treat as third parties any other advisers or sub-advisers for the fund or funds for which the adviser is completing the Form.[33] Finally, in response to two comments, we have added an instruction clarifying how advisers to insurance company separate accounts,[34] and the funds underlying the separate accounts, should respond to items in Form ADV–Y2K.[35]

IV. Paperwork Reduction Act

As discussed in the Proposing Release, certain provisions of rule 204–5 (17 CFR 275.204–5) contain collection of information requirements within the meaning of the Paperwork Reduction Act of 1995[36] because registered advisers would have to file new Form ADV–Y2K (17 CFR 279.9) with the Commission. The form is necessary for the Commission to assess the steps advisers are taking to manage and avoid year 2000 problems. The Commission did not receive public comments in response to its request for comments in the Proposing Release on the Paperwork Reduction Act analysis.[37]

Under Office of Management and Budget rules, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency displays a valid OMB control number.[38] The Commission, therefore, has sent the collection of information requirements contained in rule 204–5 and Form ADV–Y2K to the Office of Management and Budget for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title for the collection of information is ''Proposed Rule 204–5'' and ''Form ADV–Y2K.'' OMB has approved the PRA request and assigned control number 3235–0513 to Form ADV–Y2K with an expiration date of December 31, 1999.

The Commission is adopting rule 204–5 and Form ADV–Y2K and requiring most registered investment advisers to file the form with the Commission regarding advisers' plans to

[25] These steps are: (i) identification of potential year 2000 problems; (ii) assessment of steps to avoid year 2000 problems; (iii) implementation of steps to avoid year 2000 problems; (iv) internal testing of software designed to avoid year 2000 problems; (v) point-to-point testing of software designed to avoid year 2000 problems (*i.e.*, testing with service providers such as broker-dealers, custodians, transfer agents and distributors); and (vi) implementation of tested software that will avoid year 2000 problems.

[26] *See* Instruction 4 to Part I of Form ADV–Y2K.

[27] In our Statement on year 2000 Disclosure, *supra* note 6, we stated that an issuer should assess ''whether third parties with whom a company has material relationships are year 2000 compliant.'' We also stated that an issuer should take ''reasonable steps to verify the year 2000 readiness of any third party that could cause a material impact on the company'' and that we understood ''that this is often done by analyzing the response to questionnaires sent to these third parties.'' We believe that investment advisers should take similar steps. Therefore, the Commission has added an instruction to the form that requires advisers to make reasonable inquiries of third parties to obtain information necessary to respond to the form. *See* General Instructions to Form ADV–Y2K. If an adviser has no reason to believe that a third party's responses to an inquiry were not truthful, the Commission would not expect the adviser to inquire further.

[28] If there are multiple administrators or sponsors, the adviser must complete the form only with respect to funds for which another adviser has not reported.

[29] *See* Instruction 1 to Part II of Form ADV–Y2K.

[30] *See* Proposing Release, *supra* note 8.

[31] *See* Instruction 1 to Part II of Form ADV–Y2K.

[32] As noted in the Proposing Release, the Commission does not have authority under Section 204 of the Advisers Act (15 U.S.C. 80b–4) to require a fund sponsor or administrator that is not registered under Section 203 of the Advisers Act (15 U.S.C. 80b–3) to file Form ADV–Y2K.

[33] *See* Instruction 3 to Part II of Form ADV–Y2K.

[34] These separate accounts are typically registered with the Commission as unit investment trusts.

[35] *See* Instruction 4 to Part II of Form ADV–Y2K. This instruction is designed to exclude from Form ADV–Y2K information about the year 2000 preparedness of the insurance company's general computer systems, the primary function of which is to support fixed rate insurance products that are generally excluded from regulation as securities.

[36] 44 U.S.C. 3501.

[37] Although two commenters discussed the amount of time that would be required to complete Form ADV–Y2K, none specifically addressed the Paperwork Reduction Act analysis in the Proposing Release. One commenter believed that the time estimate for completing Form ADV–Y2K was reasonable; the other commenter believed the Commission's estimate was too low, but did not specify the amount of time it would take to complete the form.

[38] 44 U.S.C. 3506(c)(1)(B)(v).

address the year 2000 computer problem. The rule imposing this collection of information can be found at 17 CFR 275.204–5 and 17 CFR 279.9. The collection of information required by Form ADV–Y2K is mandatory and responses are not kept confidential.

Rule 204–5 describes the requirement to file Form ADV–Y2K. The Commission estimates that there are approximately 7,500 investment advisers registered with the Commission, approximately 6,500 of which would be required to file Form ADV–Y2K. Although the amount of time needed to comply with the rule could vary, the Commission estimates that, on average, an adviser would devote approximately two employee hours of preparation time to completing Part I of the form, and an additional two employee hours to completing Part II of the form, if the adviser is required to complete Part II. This estimate was based on field-testing of Form ADV–Y2K by the Commission's Office of Compliance Inspections and Examinations. The total annual burden will be 14,782 hours ((6,500 advisers × 2 hours) + (891 advisers × 2 hours)). This burden would be incurred twice, once in 1998 and once in 1999. The rule would not impose an ongoing reporting requirement, and the rule and form, as adopted, do not impose a greater paperwork burden on advisers than was estimated and described in the Proposing Release.

V. Cost/Benefit Analysis

The Commission is sensitive to the costs and benefits imposed by its rules, and understands that completing Form ADV–Y2K may impose costs on advisers and funds. As discussed below, we believe that the costs imposed by requiring advisers to complete Form ADV–Y2K are necessary and justified in light of the need to make information on the year 2000 problem available to investors, Congress and the Commission.

The Commission believes that requiring advisers to report on their readiness for the year 2000 problem will yield important benefits, both direct and indirect. The year 2000 reports required by the rule will yield direct benefits because they will assist the Commission in evaluating the preparedness of advisers and funds for the year 2000 computer problem. The reports also will help us identify advisers and funds that may not be preparing for the year 2000 problem and may pose a risk to their clients and shareholders. The reports also will identify disclosure by advisers and funds regarding risks associated with the year 2000 problem that may be inadequate. Finally, the reports will permit the Commission to make information available to the public and to fulfill requests by members of Congress for information regarding the securities industry's readiness for the year 2000 problem.

The year 2000 reports will yield important indirect benefits. By requiring the year 2000 reports at this time, some advisers and funds, whose year 2000 preparedness efforts to date have been inadequate, may be persuaded to accelerate their efforts, which could save them significant costs in the future if they fail to make the necessary modifications to their computer systems.[39] This indirect benefit is difficult to quantify. It is difficult to estimate the costs that could be incurred if computer systems of advisers and funds fail to function properly after December 31, 1999.[40] Moreover, if the systems of advisers and funds fail after December 31, 1999, it could have negative effects not only for the advisers and funds themselves, but also for investors and third parties, such as underwriters, brokers, transfer agents, custodians, sub-advisers and other service providers.

Avoiding the harm to third parties may be one of most important benefits to proper preparation for the year 2000 problem. Most firms' computer systems today depend on the systems of many other firms and individuals. If even one of these systems were to fail, this could have negative repercussions on the systems of other firms with which its computers communicate. The failure to address this interdependence may be one of the greatest harms stemming from the year 2000 problem.[41] The benefit of avoiding this harm from occurring, although difficult to quantify, may be extremely significant to investors, firms and the economy in general.

The proposed rule may impose some additional costs on advisers and funds. Advisers may need to spend resources obtaining answers to questions in the form, completing the form and submitting it to the Commission. These costs likely will vary from adviser to adviser. Small advisers, for example, may spend comparatively little time completing the form because small advisers are likely to have few systems, and one person may be responsible for all of the systems. This person may have all of the information necessary to complete the form and can do so in a few minutes. Larger advisers may require more time because they are more likely to have many systems and it is possible that such advisers would have to draw on the knowledge of several individuals to complete the form.

The Commission estimates that there are approximately 7,500 investment advisers registered with the Commission, approximately 6,500 of which would be required to file Form ADV–Y2K. Although the time needed to comply with the rule likely will vary from adviser to adviser, the Commission estimates that an adviser will devote approximately two employee hours of time to complete Part I of the form. In addition, approximately 891 registered investment advisers have registered investment companies as clients. In our view, those 891 advisers are likely to need an additional two hours completing Part II of the form on behalf of a fund or fund complex.

These estimates are based on field-testing of the form by the Commission's Office of Compliance Inspections and Examinations. Two commenters discussed the amount of time it would take to complete the form. One agreed with the Commission's estimate while the other stated that the Commission's estimate was low, but did not specify the amount of time that would be required. Thus, the Commission is not revising its annual burden estimate, which is 14,782 hours ((6,500 advisers x 2 hours) + (891 advisers x 2 hours)). The form likely will be completed by information technology professionals. The Commission estimates the hourly wage rate for these professionals to be $100 per hour. The Commission, therefore, estimates that the total annual cost of completing the forms is $1,478,200.[42] The Commission believes that the proposed rule would not impose significant additional costs on investment advisers.

The Commission requested comment on its cost/benefit analysis, and commenters were requested to provide views and empirical data relating to any costs and benefits associated with the rule. No comments about the cost/benefit analysis, other than those discussed above, were provided, and no

[39] It has been estimated that without corrective measures, ninety percent of all computer applications worldwide may fail, or fail to function properly, because of the inability properly to recognize the date change. Maggie Parent, Morgan Stanley, year 2000 Issue Paper (May 1997), available at <http://www.ms.com/main/link12.html≤.

[40] The Securities Industry Association has stated that the transition to the year 2000 is the largest business and technology effort that the world has ever experienced. *See* SIA, year 2000, available at < http://www.sia.com/year__2000/index.html≤.

[41] C. Lawrence Meador and Leland G. Freeman, year 2000: The Domino Effect, Datamation (Jan. 1997), available at <http://www.datamation.com/PlugIn/issues/1997/jan/01depend.html≤.

[42] This burden would be incurred twice, once in 1998 and once in 1999.

data were presented. The Commission believes that the costs imposed by the rule are insignificant compared to the benefits. If advisers and funds are not prepared for the Year 2000 problem, however, the effect on advisers and funds, and their clients and third party service providers, could be very substantial. For that reason, in the Commission's view, the chance of ameliorating the Year 2000 problem with respect to advisers and funds justifies the costs involved.

VI. Summary of Regulatory Flexibility Analysis

The Commission has prepared a Final Regulatory Flexibility Analysis (''FRFA'') in accordance with the provisions of the Regulatory Flexibility Act (''Reg. Flex. Act'') (5 U.S.C. 604) in connection with the adoption of the rule described in this Release. An Initial Regulatory Flexibility Analysis (''IRFA'') was prepared in accordance with 5 U.S.C. 603 in conjunction with the Proposing Release and was made available to the public. A summary of the IRFA was published in the Proposing Release. No comments were received on the IRFA.[43]

The FRFA discusses both the need for, and objectives of, the rule and form adopted by the Commission. As set forth in greater detail in the FRFA, the rule requires most registered investment advisers to file with the Commission a report on Form ADV–Y2K regarding plans to address the Year 2000 computer problem.

The FRFA provides a description and an estimate of the number of small entities to which the rule will apply. For purposes of the Advisers Act and the Reg. Flex. Act, an investment adviser generally is a small entity if (i) it manages assets of $25 million or less reported on its last amended Form ADV (17 CFR 279.1) or its most recent Schedule I to Form ADV (17 CFR 279.1), (ii) it does not have total assets of $5 million or more on the last day of its most recent fiscal year, and (iii) it is not in a control relationship with another investment adviser that is not a small entity.[44] The Commission estimates that approximately 1,000 investment advisers registered with the Commission are small entities.

Few or none of the approximately 1,000 small entities would be subject to the rule. Only Commission registered advisers that either have $25 million or more under management or act as advisers to registered investment companies must file Form ADV–Y2K. Since the definition of small entity establishes a threshold of $25 million under management, most or all small entities are exempt from the rule by its terms. In addition, the Commission believes that few or no investment advisers that have less than $25 million under management have more than $5 million in assets or are in a control relationship with an entity that is not considered a small entity. The only other potential small entities that would be subject to the rule are those advisers that advise a registered investment company. The Commission is not aware of any small entity that advises a registered investment company. Therefore, the Commission believes that there are few or no small entities affected by the rule.

Finally, the FRFA states that, in adopting the amendments, the Commission considered (a) the establishment of differing compliance requirements that take into account the resources available to small entities; (b) simplification of the rule's requirements for small entities; (c) the use of performance rather than design standards; and (d) an exemption from the rules for small entities. The FRFA states that the Commission concluded that different standards for small entities are not necessary or appropriate.

The FRFA is available for public inspection in File No. S7–20–98, and a copy may be obtained by contacting Carolyn-Gail Gilheany, Senior Counsel, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 5–6, Washington, D.C. 20549.

VII. Statutory Authority

The Commission is adopting rule 204–5 and Form ADV–Y2K under the authority in sections 204 and 211(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4 and 80b–11(a)).

List of Subjects in 17 CFR Parts 275 and 279

Reporting and recordkeeping requirements, Securities.

Text of Rule and Form

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

1. The authority citation for Part 275 continues to read in part as follows:

Authority: 15 U.S.C. 80b–2(a)(17), 80b–3, 80b–4, 80b–6(4), 80b–6a, 80b–11, unless otherwise noted.

* * * * *

2. Section 275.204–4 is added and reserved and section 275.204–5 is added to read as follows:

§ 275.204–4 [Reserved]

§ 275.204–5 Year 2000 reports.

Every investment adviser registered with the Commission that has assets under management of not less than $25 million or is an investment adviser to an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) must file with the Commission:

(a) A completed Form ADV–Y2K (17 CFR 279.9) no later than December 7, 1998; and

(b) An additional completed Form ADV–Y2K no later than June 7, 1999.

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

3. The authority citation for Part 279 continues to read as follows:

Authority: The Investment Advisers Act of 1940, 15 U.S.C. 80b–1, *et seq.*

4. Section 279.9 and Form ADV–Y2K are added to read as follows:

§ 279.9 Form ADV–Y2K.

This form must be filed pursuant to § 275.204–5 of this chapter by certain investment advisers.

By the Commission.
Dated: October 1, 1998.

Margaret H. MacFarland,

Deputy Secretary.

Note: The text of Form ADV–Y2K will not appear in the Code of Federal Regulations. Form ADV–Y2K is attached as Exhibit A.

BILLING CODE 8010–01–U

[43] Although two commenters discussed the amount of time required to complete Form ADV–Y2K, none specifically addressed the IRFA.

[44] The Commission recently adopted revised definitions of ''small entity.'' *See* Definitions of ''Small Business'' or ''Small Organization'' Under the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, and the Securities Act of 1933, Investment Adviser Act Release No. 1727 (June 24, 1998) [63 FR 35508 (June 30, 1998)].

EXHIBIT A [NOTE: The text of Form ADV-Y2K does not appear in the Code of Federal Regulations]

DO NOT FILE THIS INSTRUCTION PAGE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form ADV-Y2K
Form for Reporting on Preparations for the Year 2000

GENERAL INSTRUCTIONS

Throughout these instructions and the form, we will refer to the investment advisory firm on behalf of which the form is being completed as "you."

Who Must File
You must complete this report and file it with the SEC if you are registered with the SEC and either:

- you have assets under management of $25 million or more as reported on your current Form ADV, or
- you advise an investment company registered under the Investment Company Act of 1940.

When Must You File
You must file this form twice. Initially, on or before December 7, 1998, and then on or before June 7, 1999. The second report will serve to update the first report. The information in both reports must be current as of a date no earlier than two weeks before the date by which the reports must be filed.

How You File The Form
You may complete this form by utilizing one of two methods described below:

1. manually completing the paper version of Form ADV-Y2K provided to you by the SEC, or
2. electronically completing the version of the form available on the SEC's web site. If you use the electronic version of the form, you must still print and sign the completed form. Further instructions on how to access the electronic form can be obtained on the SEC's web site at <http://www.sec.gov/rules/othern/advfaq.htm>

If manually completing the form, please use a black pen and print in capital letters. Avoid contact with the edge of the box as in the example below:

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z

0	1	2	3	4	5	6	7	8	9

The original and two copies of each Form ADV-Y2K must be filed with the Commission's principal office at 450 Fifth Street, N.W., Washington, D.C. 20549. Staple the original, and each of the copies, separately. The original must be manually signed.

If you do not have the information to complete this form, you must make reasonable inquiries to obtain the information.

If necessary to explain your responses, you may attach additional information, but we ask that you do not write explanatory notes or make any other marks next to the questions.

Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number.

The information contained in the reports submitted on this Form will assist the Commission in evaluating whether investment advisers registered with the SEC will be prepared for the computer problems associated with the Year 2000, identify advisers and funds that may not be prepared for the Year 2000 problem, and permit the Commission to fulfill Congressional and other requests for information regarding the securities industry's readiness for the Year 2000. Responses to the questions in this Form are mandatory. The completed Forms will be publicly available.

59421

Form ADV-Y2K

SEC File No.

NOTE:
This number must appear on all pages.

OMB APPROVAL

OMB Number: 3235-0513
Expires: Dec. 31, 1999
Estimated average burden hours per response: 2.27

Adviser Name / Business Address Information

Name under which business is conducted, if different than above.

DBA Name

Contact Person Responsible For Filling Out This Form

First Name

Last Name

Title

(Area Code) Telephone Number

( ) -

E-Mail Address (if applicable)

For SEC Use Only

Month / **Day** / **Year**

Adviser Mailing Address:

59421

Form ADV-Y2K

SEC File No.

NOTE:
This number must appear on all pages.

Contact Person Responsible For Filling Out This Form (continued)

Business Address (Line 1)

Business Address (Line 2)

City **State** **Zip Code**

Country

Execution

The undersigned represents that he or she is executing this Form on behalf of, and with the authority of, the registrant. (The person executing the Form does not necessarily have to be the contact person above.)

The undersigned and registrant represent that the information contained in this Form is current, true and complete to the best of his or her knowledge.

Date

Month / **Day** / **Year**

Adviser Name

By (Signature):

Printed Name

Title

ATTENTION:
Advisers are reminded that it is a violation of section 207 of the Advisers Act to willfully make any untrue statement of a material fact in any report filed with the Commission, or willfully to omit to state in any such report any material fact that is required to be stated in the Form.

59421

59421

Form ADV-Y2K

SEC File No.

NOTE:
This number must appear on all pages.

PART I. Instructions

1. If you are required to file Form ADV-Y2K, you must complete Part I. Complete Part I even if you also will be completing Part II because you are an adviser to an investment company.
2. Include in your answers to Part I your SEC-registered investment adviser affiliates that are not required to file this report.
3. Answer Part I with respect to all of your computer systems, including systems that service only investment company clients.
4. If you have computer systems for which you have made different amounts of progress in preparing for the Year 2000 problem, base your responses on a qualitative average of your systems. Give greater weight to mission-critical systems, and systems used for a large number of clients, than to other systems.
5. If your advisory firm has multiple lines of business, base your responses only on computer systems that support your advisory business. For example, if you are also a tax return preparation firm, you need not take into consideration computer systems used solely for preparing tax returns (even if you prepare some of the tax returns of your advisory clients), although you must consider a billing system used to bill both advisory and tax preparation clients.
6. If more than one answer to a question is applicable, mark all answers that apply.
7. When marking the answer(s) to each question, shade circles like this: ● Not like this: ⊗ ✓

PART I. Information on Preparations by Investment Advisers for the Year 2000 Problem

1. Year 2000 compliance plan

(a) Do you have a plan for Year 2000 compliance to address whether your computer systems will operate correctly after December 31, 1999?

○ Yes ○ No *Consider as a plan, or as part of a plan, contacts with third parties upon whom you rely for systems you use.*

If the answer to question 1(a) is Yes, answer questions 1(c) through 1(i) and then go on to question 2.
If the answer to question 1(a) is No, answer question 1(b) below and then go on to question 2.

(b) If you do not have a plan, then are you:

○ Developing a plan. Expected date it will be completed by: Month ☐☐ / Day ☐☐ / Year ☐☐☐☐

○ Not developing a written plan because you do not plan to be conducting business after January 1, 2000.
Date you expect to be out of business by: Month ☐☐ / Day ☐☐ / Year ☐☐☐☐

○ Other (please specify on a separate attachment)

(c) Does the plan address external interfaces with third party computer systems that communicate with your systems?

○ Yes ○ No

59421

Form ADV-Y2K

SEC File No.

NOTE:
This number must appear on all pages.

PART I. Information on Preparations by Investment Advisers for the Year 2000 Problem (continued)

1. Year 2000 compliance plan (continued)

(d) Is your Year 2000 compliance plan in writing?

O Yes O No

(e) Who has approved the plan? (mark all that apply)

O No approval O Corporate officers O Head of Information Technology or equivalent

O Board of directors O Executive management O Employees

(f) Has the plan been discussed with your outside auditors?

O Yes O No

(g) What is the scope of coverage of the plan? (mark all that apply)

O All systems O Mission-critical systems O Physical facilities O Communications systems

(h) Which of your facilities does the plan cover? (mark all that apply)

O Our primary facility O All U.S. facilities O All facilities worldwide

O Certain U.S. facilities O Certain facilities worldwide O We have no international facilities

(i) Are your activities for non-US clients covered by the plan?

O Yes O No O Not applicable

2. Funding for Year 2000 compliance

(a) Please indicate the month your fiscal year begins: ☐☐ *(Example: '01' for January, '02' for February, etc.)*

(b) Has specific funding been allocated for fiscal year 1998, fiscal year 1999, or fiscal year 2000, for your Year 2000 compliance plan?
If funding has not yet been allocated for fiscal year 1999 or fiscal year 2000, mark 'No'.
If you marked 'No' for 1998, 1999, and 2000, then go on to question 3.

(i) 1998 O Yes O No

(ii) 1999 O Yes O No

(iii) 2000 O Yes O No

(c) What is your specific 1998 fiscal year budget allocation for Year 2000 compliance (including operating and capital expenditures)?

O Less than $1,000 O $100,001 - $500,000 O $5 - 10 million O Over $100 million

O $1,001 - $10,000 O $500,001 - $1 million O $10 - 20 million

O $10,001 - $50,000 O $1 - 2 million O $20 - 50 million

O $50,001 - $100,000 O $2 - 5 million O $50 - 100 million

59421

Form ADV-Y2K

SEC File No.

NOTE:
This number must appear on all pages.

PART I. Information on Preparations by Investment Advisers for the Year 2000 Problem (continued)

2. Funding for Year 2000 compliance (continued)

(d) What items are contained in your 1998 fiscal year budget for Year 2000 compliance? (mark all that apply)

- O Assessment of the problem
- O Correction of systems
- O Replacement of systems
- O Internal testing
- O Point-to-point testing (including testing with broker-dealers, custodians, transfer agents and other service providers)
- O Training
- O SIA industry-wide testing
- O Implementation of contingency plans

If you marked 'No' for 1999 and 2000 in question 2(b), then go on to question 3.

(e) What is your specific 1999 fiscal year budget allocation for Year 2000 compliance (including operating and capital expenditures)?

- O Less than $1,000
- O $1,001 - $10,000
- O $10,001 - $50,000
- O $50,001 - $100,000
- O $100,001 - $500,000
- O $500,001 - $1 million
- O $1 - 2 million
- O $2 - 5 million
- O $5 - 10 million
- O $10 - 20 million
- O $20 - 50 million
- O $50 - 100 million
- O Over $100 million

(f) What items are contained in your 1999 fiscal year budget for Year 2000 compliance? (mark all that apply)

- O Assessment of the problem
- O Correction of systems
- O Replacement of systems
- O Internal testing
- O Point-to-point testing (including testing with broker-dealers, custodians, transfer agents and other service providers)
- O Training
- O SIA industry-wide testing
- O Implementation of contingency plans

If you marked 'No' for 2000 in question 2(b), then go on to question 3.

(g) What is your specific 2000 fiscal year budget allocation for Year 2000 compliance including operating and capital expenditures? *Estimate if specific information is not yet available.*

- O Less than $1,000
- O $1,001 - $10,000
- O $10,001 - $50,000
- O $50,001 - $100,000
- O $100,001 - $500,000
- O $500,001 - $1 million
- O $1 - 2 million
- O $2 - 5 million
- O $5 - 10 million
- O $10 - 20 million
- O $20 - 50 million
- O $50 - 100 million
- O Over $100 million

(h) What items are contained in your 2000 fiscal year budget for Year 2000 compliance? (mark all that apply)
Estimate if specific information is not yet available.

- O Assessment of the problem
- O Correction of systems
- O Replacement of systems
- O Internal testing
- O Point-to-point testing
- O Training
- O SIA industry-wide testing
- O Implementation of contingency plans

59421

Form ADV-Y2K

SEC File No.

NOTE:
This number must appear on all pages.

PART I. Information on Preparations by Investment Advisers for the Year 2000 Problem (continued)

3. Persons responsible for Year 2000 compliance

(a) Has one or more individuals been designated as responsible for your Year 2000 compliance?

○ Yes ○ No *Include both employees and consultants*

(b) If yes, provide the following information on the person primarily responsible:
Provide information for one person only.

First Name

Last Name

Title

Business Address (Line 1)

Business Address (Line 2)

City

State

Zip Code -

4. Staffing for Year 2000

(a) Is this a full-time (or full-time equivalent) project for one or more individuals?

○ Yes ○ No *Include both employees and third parties.*

(b) If yes, how many full-time (or full-time equivalent) individuals are working on Year 2000 compliance?

○ 1 ○ 6-10 ○ 21-50 ○ 101-200

○ 2-5 ○ 11-20 ○ 51-100 ○ Over 200

(c) Have you hired third parties to assist you on Year 2000 issues?

○ Yes ○ No

59421

Form ADV-Y2K

SEC File No.

NOTE:
This number must appear on all pages.

PART I. Information on Preparations by Investment Advisers for the Year 2000 Problem (continued)

4. Staffing for Year 2000 (continued)

(d) If yes, what function(s) are the third parties performing? (mark all that apply)

- O Assessment of the problem
- O Correction of systems
- O Replacement of systems
- O Internal testing
- O Vendor assessment
- O Point-to-point testing (including testing with broker-dealers, custodians, transfer agents and other service providers)
- O Training
- O SIA industry-wide testing
- O Implementation of contingency plans
- O Other

(e) If you have not completed staffing your Year 2000 project, are you:

- O Defining resources -- expected date it will be completed by: Month / Day / Year
- O Unable to find sufficient staffing resources
- O Handling the staffing as part of your ongoing business operations

5. Inventory of systems

(a) Have you inventoried all of your systems?

O Yes O No

(b) What is the nature of the computer systems you utilize? (mark all that apply)

O Off-the-shelf O Vendor provided O Developed in-house (custom made) O Other

(c) Have you identified your mission-critical systems?

O Yes O No

(d) If no, this is expected to be completed by: Month / Day / Year

(e) Have you determined which of your mission-critical systems are not currently Year 2000 compliant?

O Yes O No

6. Awareness of the problem

What steps have you taken to enhance awareness of potential Year 2000 problems? (mark all that apply)

- O None to date
- O Designated individuals for Year 2000 compliance
- O Presentations to the Adviser's Board
- O Presentations to management
- O Presentations to employees
- O Contacted third parties
- O Other

59421

Form ADV-Y2K

SEC File No.

NOTE: This number must appear on all pages.

PART I. Information on Preparations by Investment Advisers for the Year 2000 Problem (continued)

7. Progress on preparing mission-critical systems for the Year 2000

What is your progress, if any, on the following stages of preparation for the Year 2000?

(a) Assessment of steps you expect to take to address Year 2000 problems with your mission-critical systems (including preparing an inventory of computer systems affected by the Year 2000 problem):

○ 0% complete ○ 1 - 25% ○ 26 - 50% ○ 51 - 75% ○ 76 - 99% ○ Complete

If not completed, assessment expected to be completed by: Month / Day / Year

(b) Implementation of steps you expect to take to address Year 2000 problems with your mission-critical systems:

○ 0% complete ○ 1 - 25% ○ 26 - 50% ○ 51 - 75% ○ 76 - 99% ○ Complete

If not completed, implementation expected to be completed by: Month / Day / Year

(c) Testing of your internal mission-critical systems:

○ 0% complete ○ 1 - 25% ○ 26 - 50% ○ 51 - 75% ○ 76 - 99% ○ Complete

If not completed, testing expected to be completed by: Month / Day / Year

(d) Did your testing of internal mission-critical systems result in material exceptions that remain unresolved as of this filing?

○ Yes ○ No ○ Not Applicable

(e) Point-to-point testing of your mission-critical systems (including testing with broker-dealers, custodians, transfer agents and other service providers):

○ 0% complete ○ 1 - 25% ○ 26 - 50% ○ 51 - 75% ○ 76 - 99% ○ Complete

If not completed, point-to-point testing expected to be completed by: Month / Day / Year

(f) Did your point-to-point testing of internal mission-critical systems result in material exceptions that remain unresolved as of this filing?

○ Yes ○ No ○ Not Applicable

(g) Implementation of tested software to address Year 2000 problems with your mission-critical systems:

○ 0% complete ○ 1 - 25% ○ 26 - 50% ○ 51 - 75% ○ 76 - 99% ○ Complete

If not completed, implementation expected to be completed by: Month / Day / Year

59421

Form ADV-Y2K

SEC File No.

NOTE:
This number must appear on all pages.

PART I. Information on Preparations by Investment Advisers for the Year 2000 Problem (continued)

8. Progress on preparing all other systems for the Year 2000

What is your progress, if any, on the following stages of preparation for the Year 2000?

(a) Assessment of steps you expect to take to address Year 2000 problems with your non-mission-critical systems (including preparing an inventory of computer systems affected by the Year 2000 problem):

O 0% complete O 1 - 25% O 26 - 50% O 51 - 75% O 76 - 99% O Complete

If not completed, assessment expected to be completed by: Month / Day / Year

(b) Implementation of steps you expect to take to address Year 2000 problems with your non-mission-critical systems:

O 0% complete O 1 - 25% O 26 - 50% O 51 - 75% O 76 - 99% O Complete

If not completed, implementation expected to be completed by: Month / Day / Year

(c) Testing of your non-mission-critical systems:

O 0% complete O 1 - 25% O 26 - 50% O 51 - 75% O 76 - 99% O Complete

If not completed, testing expected to be completed by: Month / Day / Year

(d) Did your testing of internal non-mission-critical systems result in material exceptions that remain unresolved as of this filing?

O Yes O No O Not Applicable

(e) Point-to-point testing of your non-mission-critical systems (including testing with broker-dealers, custodians, transfer agents and other service providers):

O 0% complete O 1 - 25% O 26 - 50% O 51 - 75% O 76 - 99% O Complete

If not completed, point-to-point testing expected to be completed by: Month / Day / Year

(f) Did your point-to-point testing of internal non-mission-critical systems result in material exceptions that remain unresolved as of this filing?

O Yes O No O Not Applicable

(g) Implementation of tested software to address Year 2000 problems with your non-mission-critical systems:

O 0% complete O 1 - 25% O 26 - 50% O 51 - 75% O 76 - 99% O Complete

If not completed, implementation expected to be completed by: Month / Day / Year

59421

Form ADV-Y2K

SEC File No.

NOTE: This number must appear on all pages.

PART I. Information on Preparations by Investment Advisers for the Year 2000 Problem (continued)

9. Contingency Plans

(a) Do you have a contingency plan for your systems if, after December 31, 1999, you have computer problems caused by the Year 2000?

O Yes O No

(b) If yes, is the contingency plan in writing?

O Yes O No

(c) If no, what is your progress in preparing a contingency plan?

O 0% complete O 1 - 25% O 26 - 50% O 51 - 75% O 76 - 99% O Complete

If not completed, contingency plan expected to be completed by: ☐☐ / ☐☐ / ☐☐☐☐ (Month / Day / Year)

(d) What is the scope of coverage of the contingency plan? (mark all that apply)

Include only internal systems and external systems that are individually related to the adviser.

O No systems O Mission-critical systems O Physical facilities O Communications systems O All systems

(e) Who has approved the contingency plan? (mark all that apply)

O No approval O Corporate officers O Head of Information Technology or equivalent

O Board of directors O Executive management O Employees

10. Third parties who provide mission-critical systems

(a) Have you identified all third parties upon whom you rely for your mission-critical systems?

O Yes O No

(b) If yes, on how many third parties do you rely for your mission-critical systems: ☐☐☐

(c) With what percentage of third parties upon whom you rely for mission-critical systems have you had contact regarding the third parties' readiness for the year 2000?

O 0% O 1 - 25% O 26 - 50% O 51 - 75% O 76 - 99% O 100%

If not all, contact expected to be completed by: ☐☐ / ☐☐ / ☐☐☐☐ (Month / Day / Year)

59421

Form ADV-Y2K

SEC File No.

NOTE:
This number must appear on all pages.

PART I. Information on Preparations by Investment Advisers for the Year 2000 Problem (continued)

10. Third parties who provide mission-critical systems (continued)

(d) Has any third party on whom you rely for mission-critical systems declined or failed to provide you with assurances that it is undertaking the necessary steps to prepare for the Year 2000?

O Yes O No O Not Applicable

(e) If yes, what number of third parties providing mission-critical systems have failed to provide such assurances: ☐☐☐

(f) Does your contingency plan account for third parties whose systems may fail after December 31, 1999?

O Yes O No O We have no contingency plan

11. Year 2000 preparations by companies whose securities you recommend

(a) In formulating advice given to clients as to the advisability of investing in, or continuing to hold, securities of particular issuers, do you take into account the extent to which the issuer has prepared for the Year 2000 problem?

O Yes O No O Not Applicable (not applicable to investment style)

(b) If yes, where does the adviser obtain information about issuers' preparedness?

O Representatives of issuers O Reports filed with the SEC O Publications

O Persons doing business with issuers O Securities Analysts O Other

12. Indicate the amount of your assets managed as reported in your last amended Form ADV (add the two amounts reported in Items 18B and 19B of Part I of Form ADV).

$☐☐☐,☐☐☐,☐☐☐,☐☐☐ (to the nearest whole dollar)

13. Questions related to Part II of this form

(a) Are you filing Part II of this form (see instructions for Part II)?

O Yes O No

(b) If you are filing more than one version of Part II, because you advise funds in different fund families, how many versions of Part II are you filing? ☐☐

59421

6785

Form ADV-Y2K

SEC File No.

NOTE:
This number must appear on all pages.

PART II. Instructions

1. If you are an adviser or sub-adviser to an investment company registered under the Investment Company Act of 1940 ("fund") you must complete Part II with respect to that fund and any other fund in the same fund "complex" or "family" unless another adviser is submitting a Form ADV-Y2K that covers that fund.

   Note: Under this instruction, if a fund complex has multiple advisers, the Commission expects that the adviser that sponsors or administers the fund complex would complete Part II. If neither the sponsor nor the administrator is a registered investment adviser, the advisers must decide among themselves which will complete and submit Form ADV-Y2K.

2. Answer Part II with respect to all computer systems used by the fund complex. If the complex has computer systems for which different amounts of progress in preparing for the Year 2000 problem have been made, base your responses on a qualitative average of the systems. Give greater weight to mission-critical systems than to other systems.

3. Include as third parties any other advisers or sub-advisers to the fund, or complex, on whose behalf you are filing Part II.

4. An adviser to (managed) insurance company separate accounts should limit its responses to the systems used to manage the account's portfolio. An adviser to funds serving as funding vehicles to insurance company separate accounts organized as unit investment trusts should limit its responses to the underlying funds and exclude systems used by the insurance company to administer the separate account.

5. If more than one answer to a question is applicable, mark all answers that apply.

6. When marking the answer(s) to each question, shade circles like this: ● Not like this: ⊗ ☑

PART II. Information About Preparations by Investment Company Clients of Investment Advisers for the Year 2000

1. Identify the fund or funds, or the fund complex, on whose behalf you are filing this form. Provide the name and ten-letter identifier for the complex used in Item 19C of Form N-SAR, if available. If no answer to Item 19C was provided, provide the full name of the complex. *If you are responding for multiple funds on this form, provide the name or names of the additional funds on a separate attachment.*

   (a) Name of fund or funds, or fund complex:

   (b) Ten-letter identifier in Form N-SAR:

2. Year 2000 compliance plan

   (a) Does the fund you advise have a plan for Year 2000 compliance to address whether its computer systems will operate correctly after December 31, 1999?

   ○ Yes ○ No *Consider as a plan, or as part of a plan, efforts by the fund's board to monitor the activities of the fund's service providers.*

6785

Form ADV-Y2K

SEC File No.

NOTE:
This number must appear on all pages.

PART II. Information About Preparations by Investment Company Clients of Investment Advisers for the Year 2000 (continued)

2. Year 2000 compliance plan (continued)

If the answer to question 2(a) is No, answer question 2(b) below and then go on to question 3.

(b) If No, then is the fund:

○ **Developing a plan. Expected date it will be completed by:** Month / Day / Year

○ **Not developing a plan because the fund does not plan to be conducting business after December 1, 1999.**

Date the fund expects to be out of business by: Month / Day / Year

○ **Other (please specify on a separate attachment)**

If the answer to question 2(a) is Yes, answer questions 2(c) through 2(h) and then go on to question 3.

(c) Is the Year 2000 compliance plan in writing?

○ **Yes** ○ **No**

(d) Who has approved the plan? (mark all that apply)

○ **No approval** ○ **Corporate officers** ○ **Head of Information Technology or equivalent**

○ **Fund's board of directors** ○ **Executive management** ○ **Employees**

(e) Has the plan been discussed with outside auditors?

○ **Yes** ○ **No**

(f) What is the scope of coverage of the plan? (mark all that apply)

○ **All systems** ○ **Mission-critical systems** ○ **Physical facilities** ○ **Communications systems**

(g) Who had primary responsibility for preparing the Year 2000 plan?

○ **The fund (or fund's board of directors)** ○ **A sub-adviser** ○ **A transfer agent** ○ **A broker-dealer**

○ **An adviser** ○ **An administrator** ○ **A custodian** ○ **Other**

(h) Is the person or persons who have primary responsibility for preparing the Year 2000 plan the same person or persons completing the form?

○ **Yes** ○ **No**

6785

Form ADV-Y2K

SEC File No.

NOTE: This number must appear on all pages.

PART II. Information About Preparations by Investment Company Clients of Investment Advisers for the Year 2000 (continued)

3. Persons responsible for Year 2000 compliance

(a) Has one or more individuals been designated as responsible for your Year 2000 compliance for the fund?

○ Yes ○ No *Include employees, employees of service providers (such as the adviser) and consultants*

(b) If yes, provide the following information on the person primarily responsible:

First Name

Last Name

Title

Business Address (Line 1)

Business Address (Line 2)

City

State

Zip Code -

4. Inventory of systems

(a) Has the fund had an inventory conducted of the systems it uses?

○ Yes ○ No

(b) What is the nature of the computer systems utilized? (mark all that apply)

○ Off-the-shelf ○ Vendor provided ○ Developed in-house (custom made) ○ Other

(c) Have the mission-critical systems used by the fund been identified?

○ Yes ○ No

(d) If no, this is expected to be completed by: Month / Day / Year

(e) Has a determination for the fund been made as to which mission-critical systems it uses are not currently Year 2000 compliant?

○ Yes ○ No

6785

Form ADV-Y2K

SEC File No. _____ *NOTE: This number must appear on all pages.*

PART II. Information About Preparations by Investment Company Clients of Investment Advisers for the Year 2000 (continued)

5. Awareness of the problem.

What steps have been taken to enhance awareness of potential Year 2000 problems? (mark all that apply)

- O None to date
- O Designated individuals for Year 2000 compliance
- O Presentations to the fund's board of directors
- O Presentations to management
- O Presentations to employees
- O Contacted third parties

6. Progress on preparing mission-critical systems for the Year 2000

What is the investment company's progress, if any, on the following stages of preparation for the Year 2000?

(a) Assessment of steps the fund expects to take to address Year 2000 problems with mission-critical systems it uses (including preparing an inventory of computer systems affected by the Year 2000):

O 0% complete O 1 - 25% O 26 - 50% O 51 - 75% O 76 - 99% O Complete

If not completed, assessment expected to be completed by: ☐☐ / ☐☐ / ☐☐☐☐ (Month / Day / Year)

(b) Implementation of steps the fund expects to take to address Year 2000 problems with mission-critical systems it uses:

O 0% complete O 1 - 25% O 26 - 50% O 51 - 75% O 76 - 99% O Complete

If not completed, implementation expected to be completed by: ☐☐ / ☐☐ / ☐☐☐☐ (Month / Day / Year)

(c) Testing of mission-critical systems (including testing with broker-dealers, custodians, transfer agents and other service providers):

O 0% complete O 1 - 25% O 26 - 50% O 51 - 75% O 76 - 99% O Complete

If not completed, testing of mission critical systems expected to be completed by:

☐☐ / ☐☐ / ☐☐☐☐ (Month / Day / Year)

(d) Did testing of mission-critical systems result in material exceptions that remain unresolved as of this filing?

O Yes O No O Not Applicable

(e) Implementation of tested software to address Year 2000 problems with mission-critical systems:

O 0% complete O 1 - 25% O 26 - 50% O 51 - 75% O 76 - 99% O Complete

If not completed, implementation expected to be completed by:

☐☐ / ☐☐ / ☐☐☐☐ (Month / Day / Year)

6785

Form ADV-Y2K

SEC File No.

NOTE: This number must appear on all pages.

PART II. Information About Preparations by Investment Company Clients of Investment Advisers for the Year 2000 (continued)

7. Progress on preparing all other systems for the Year 2000

What is the investment company's progress, if any, on the following stages of preparation for the Year 2000?

(a) Assessment of steps the fund expects to take to address Year 2000 problems with non-mission-critical systems (including preparing an inventory of computer systems affected by the Year 2000):

○ 0% complete ○ 1 - 25% ○ 26 - 50% ○ 51 - 75% ○ 76 - 99% ○ Complete

If not completed, assessment expected to be completed by: Month / Day / Year

(b) Implementation of steps the fund expects to take to address Year 2000 problems with non-mission-critical systems:

○ 0% complete ○ 1 - 25% ○ 26 - 50% ○ 51 - 75% ○ 76 - 99% ○ Complete

If not completed, implementation expected to be completed by: Month / Day / Year

(c) Testing of non-mission-critical systems (including testing with broker-dealers, custodians, transfer agents and other service providers):

○ 0% complete ○ 1 - 25% ○ 26 - 50% ○ 51 - 75% ○ 76 - 99% ○ Complete

If not completed, testing expected to be completed by: Month / Day / Year

(d) Did testing of non-mission-critical systems result in material exceptions that remain unresolved as of this filing?

○ Yes ○ No ○ Not Applicable

(e) Implementation of tested software to address Year 2000 problems with non-mission-critical systems:

○ 0% complete ○ 1 - 25% ○ 26 - 50% ○ 51 - 75% ○ 76 - 99% ○ Complete

If not completed, implementation expected to be completed by: Month / Day / Year

8. Contingency Plans

(a) Does the fund have a contingency plan for systems it uses if, after December 31, 1999, it has computer problems caused by the Year 2000?

○ Yes ○ No

(b) If yes, is the contingency plan in writing?

○ Yes ○ No

6785

Form ADV-Y2K

SEC File No.

NOTE: This number must appear on all pages.

PART II. Information About Preparations by Investment Company Clients of Investment Advisers for the Year 2000 (continued)

8. Contingency Plans (continued)

(c) What is the scope of coverage of the contingency plan? (mark all that apply)
Include only systems that are individually related to the fund.

O No systems O Mission-critical systems O Physical facilities O Communications systems O All systems

(d) Who has approved the contingency plan? (mark all that apply)

O No approval O Corporate officers O Head of Information Technology or equivalent

O Fund's board of directors O Executive management O Employees

(e) If the fund has no contingency plan, what is the progress in preparing a contingency plan?

O 0% complete O 1 - 25% O 26 - 50% O 51 - 75% O 76 - 99% O Complete

If not completed, contingency plan expected to be completed by: Month / Day / Year

9. How often is the board of directors of the fund apprised of progress in the investment company's Year 2000 compliance efforts?

O Not informed O Quarterly

O Weekly O Annually

O Monthly O From time to time

10. Indicate the amount of assets that are covered by this report. Do not double-count assets in arrangements where one investment vehicle is a mere conduit for an investment in another fund (i.e., assets in a two-tier structure, such as a "master/feeder" structure or a unit investment trust that issues periodic payment plans or that is an insurance company separate account).

$, , , (to the nearest whole dollar)

For SEC Use Only

Month / Day / Year

[FR Doc. 98–26863 Filed 10–7–98; 8:45 am]
BILLING CODE 8010–01–C

Federal Register

Thursday
October 8, 1998

Part V

Department of Housing and Urban Development

24 CFR Part 1710

Interstate Land Sales Registration Fees; Change in Mailing Address and Authority to Make Electronic Payment; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 1710

[Docket No. FR–4365–F–01]

RIN 2502–AH22

Interstate Land Sales Registration Fees; Change in Mailing Address and Authority to Make Electronic Payment

AGENCY: Office of Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: Under current regulations, a fee must accompany a Statement of Record that is filed with the Secretary under the Interstate Land Sales Full Disclosure Act, and the fee cannot be paid electronically. This final rule provides that the fee must be mailed to an address specified by the Secretary, and permits electronic payment. The current mailing address is set forth in the **SUPPLEMENTARY INFORMATION**.

DATES: Effective Date: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Elizabeth Cocke, Office of Consumer and Regulatory Affairs, Room 9156, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (voice) (202) 708–6401. (This is not a toll-free number.) Hearing-impaired or speech-impaired individuals may access the voice telephone listed by calling the Federal Information Relay Service during working hours at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Under 24 CFR 1710.20, a developer or owner of a subdivision seeking to register a subdivision under the Interstate Land Sales Full Disclosure Act must file a Statement of Record at the Office of Interstate Land Sales Registration in HUD Headquarters, accompanied by a registration fee in the amount and form set out in § 1710.35. Section 1710.35 requires payment by certified check, cashier's check, or postal money order payable to the Treasurer of the United States.

The Department will continue to require the Statements of Record to be filed at HUD Headquarters, but it is inefficient for the Department to collect fees at this address. Therefore, HUD is amending §§ 1710.20 and 1710.35 to require that a fee paid by check or money order be mailed to an address specified by HUD when the Statement of Record is filed with HUD. Until a different address is announced by HUD, registration fees that are mailed must be sent to HUD's ''lockbox'' at the following address: HUD, Interstate Land Sales, P.O. Box 100655, Atlanta, GA 30384–0655.

Fees received at this address will be immediately deposited and accounted for. Information regarding this process, and the lockbox address, will be distributed to industry publications for further dissemination.

To assist the Department in accounting for fees received, each check must account for a single fee. Each check must include on the face the name of the subdivision for which the fee is being paid, and the ''OILSR'' or registration number, when known. Any check received without this information could delay proper accounting of the fee and/or processing of the registration.

The Department of Treasury encourages HUD and other agencies to provide for payments to be made through electronic means. HUD supports this policy, and is therefore amending § 1710.35 to permit HUD to accept electronic payment of registration fees and other fees required by part 1710. HUD will continue to accept payment by check or money order, mailed to the address specified by the Secretary. Information on how to begin electronic payment of fees is available from HUD at: HUD, Interstate Land Sales/RESPA Office, Room 9156, 451 7th St., SW, Washington, DC 20410, (202) 708–0502.

Other Matters

Justification for Final Rule

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. Part 10 does provide, however, that public comment is not required for a rule governing the Department's internal practices or procedures. A rule specifying the address at which the Department will receive a required fee, and permitting but not mandating electronic payment of fees, falls within this exception. There is no substantive impact on the rights or obligations of regulated parties.

Environmental Finding

This final rule is exempt from environmental review requirements under 24 CFR 50.19(c)(3).

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order.

The Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Secretary, by approval of this rule, certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule allows developers greater flexibility by permitting electronic payment and thereby reduces processing time and expense.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

List of Subjects in Part 1710

Administrative practice and procedure, Consumer protection, Freedom of information, Land sales, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 1710 is amended as follows:

PART 1710—LAND REGISTRATION

1. The authority for part 1710 continues to read as follows:

Authority: 15 U.S.C. 1718; 42 U.S.C. 3535(d).

2. Section 1710.20 is amended by revising the last sentence of paragraph (a) to read as follows:

§ 1710.20 Requirements for registering a subdivision— Statement of Record— filing and form.

(a) * * * When the Statement of Record is filed, a fee in the amount set out in § 1710.35(b) must be paid in accordance with § 1710.35(a).

* * * * *

3. Section 1710.35 is amended by revising paragraph (a) to read as follows:

§ 1710.35 Payment of fees.

(a) *Method of payment.* (1) Each fee must be paid by:

(i) Certified check, cashier's check, or postal money order made payable to the

Treasurer of the United States, with the registration number, when known, and the name, of the subdivision on the face of the check, and mailed to an address specified by the Secretary; or

(ii) Electronic payment in a manner specified by the Secretary.

(2) Information regarding the current mailing address or electronic payment procedures is available from: HUD, Office of Interstate Land Sales/RESPA Division, Room 9156, 451 7th St., SW, Washington, DC 20410.

* * * * *

Dated: September 25, 1998.

Ira Peppercorn,

General Deputy Assistant Secretary for Housing.

[FR Doc. 98–27017 Filed 10–7–98; 8:45 am]

BILLING CODE 4210–27–P

Federal Register

Thursday
October 8, 1998

Part VI

Department of Housing and Urban Development

Publication of Delegation of Authority for Indian Programs; Notices

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4397–N–03]

Publication of Delegation of Authority for Indian Programs

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of publication of delegation of authority.

SUMMARY: On October 2, 1998, HUD published a notice in the **Federal Register**, announcing a delegation of authority necessary for the administration of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). The October 2, 1998 delegation of authority advised that a separate delegation of authority pertaining to NAHASDA was published elsewhere in October 2, 1998 edition of the **Federal Register**. The second delegation of authority was inadvertently omitted in the October 2, 1998 edition of the **Federal Register**. The second delegation of authority is being published today, immediately following this notice.

FOR FURTHER INFORMATION CONTACT: Jennifer Bullough, Office of Native American Programs, Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4130, Washington, DC 20410; telephone (202) 401–7914 (this is not a toll-free number). This telephone number may be accessed via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On October 2, 1998 (63 FR 53085), HUD published a notice in the **Federal Register**, announcing a delegation of authority necessary for the administration of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (25 U.S.C. 4101 *et seq.*).

In the October 2, 1998 notice, the Assistant Secretary for Public and Indian Housing delegated the authority for administering NAHASDA to the Deputy Assistant Secretary for Native American Programs, the Administrators of the Office of Native American Programs, the Director, Office of Grants Management, and the Director, Office of Grants Evaluation, subject to certain exceptions.

The October 2, 1998 delegation of authority advised that a separate delegation of authority pertaining to NAHASDA was published elsewhere in the October 2, 1998 edition of the **Federal Register**. The second delegation of authority was inadvertently omitted in the October 2, 1998 edition of the **Federal Register**. The second delegation of authority is being published today, immediately following this notice.

Dated: October 5, 1998.

Camille E. Acevedo,

Assistant General Counsel for Regulations.

[FR Doc. 98–27018 Filed 10–7–98; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4397–D–01]

Delegation of Authority for Indian Programs

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: In this notice, the Secretary delegates the authority for administering the Native American Housing Assistance and Self-Determination Act of 1996 to the Assistant Secretary for Public and Indian Housing, subject to certain exceptions.

EFFECTIVE DATE: September 25, 1998.

FOR FURTHER INFORMATION CONTACT: Jennifer Bullough, Office of Native American Programs, Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4130, Washington, D.C. 20410. Telephone number: (202) 401–7914. This is not a toll-free number. This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) reorganizes the system of Federal housing assistance to Native Americans by eliminating several separate programs of assistance and replacing them with a single block grant program. NAHASDA will be administered by the Office of Native American Programs within the Office of Public and Indian Housing of the Department of Housing and Urban Development. The office is responsible for administering and coordinating all programs of the Department relating to Indian and Alaska Native housing and community development.

Accordingly, the Secretary delegates authority as follows:

Section A. Authority Delegated

The Secretary of the Department of Housing and Urban Development delegates to the Assistant Secretary for Public and Indian Housing all power and authority to administer the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*), except as provided in Section B of this delegation of authority.

Section B. Authority Excepted

The authority delegated does not include the power to sue or be sued.

Section C. Authority To Further Redelegate

The authority delegated in Section A above may be redelegated.

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 25, 1998.

Andrew Cuomo,

Secretary.

[FR Doc. 98–27019 Filed 10–7–98; 8:45 am]

BILLING CODE 4210–32–P

Federal Register

Thursday
October 8, 1998

Part VII

Department of Education

Direct Grant Programs; Notice

DEPARTMENT OF EDUCATION

Direct Grant Programs

AGENCY: Department of Education.

ACTION: Notice reopening application deadline dates for certain direct grant and fellowship programs.

SUMMARY: The Secretary reopens the deadline dates for the submission of applications by certain applicants (see ELIGIBILITY) under certain direct grant programs. All of the affected competitions are among those under which the Secretary is making new awards for fiscal year (FY) 1999. If necessary, the Secretary also revises the deadlines for intergovernmental review for those programs subject to Executive Order 12372 (Intergovernmental Review of Federal Programs). The Secretary takes this action to allow more time for the preparation and submission of applications by potential applicants adversely affected by severe weather conditions resulting from Hurricane Georges. The reopenings are intended to help these potential applicants compete fairly with other applicants under these programs.

Note: Five of the affected programs or competitions are under the Office of Special Education Programs of the Office of Special Education and Rehabilitative Services. You can find information related to each of these under Group I. Three of the programs or competitions are under the National Institute on Disability and Rehabilitation Research of the Office of Special Education and Rehabilitative Services. You can find information related to each of these under Group II. Two of the programs or competitions are under Higher Education Programs of the Office of Postsecondary Education. You can find information related to each of these under Group III.

ELIGIBILITY: The extension of deadline dates in this notice applies to you if you are a potential applicant in an area that the President declared a disaster area as a result of Hurricane Georges. These areas include the following:

—Puerto Rico.
—The Virgin Islands.
—The following counties in Alabama: Baldwin, Clarke, Coffee, Covington, Crenshaw, Escambia, Geneva, Mobile, Washington.
—The following counties in Florida: Bay, Escambia, Gadsden, Holmes, Monroe, Okaloosa, Santa Rosa, Suwannee, Walton, Washington.
—The following parishes in Louisiana: Ascension, Assumption, Jefferson, LaFourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington.
—The following counties in Mississippi: Forest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone.

DATES: The new deadline date for transmitting applications under each competition is listed with that competition. If the program in which you are interested is subject to Executive Order 12372, we have listed with that program the deadline date for the transmittal of State process recommendations by State Single Points of Contact (SPOCs) and comments by other interested parties.

ADDRESSES: The address and telephone number for obtaining applications for, or information about, an individual program are in the application notice for that program. We have listed the date and **Federal Register** citation of the application notice for each program.

If you use a telecommunications device for the deaf (TDD), you may call the TDD number, if any, listed in the individual application notice. If we have not listed a TDD number, you may call the Federal Information Relay Service (FERS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

If you want to transmit a recommendation or comment under Executive Order 12372, you can find the addresses of individual SPOCs in the appendix to a notice—announcing direct grant programs and fellowship programs—published in the **Federal Register** on October 7, 1997 (62 FR 52430).

SUPPLEMENTARY INFORMATION: The following is specific information about each of the programs or competitions covered by this notice:

Group I—Office of Special Education Programs, Office of Special Education and Rehabilitative Services

—CFDA No. 84.323A State Improvement Grants Program. Application notice published: May 18, 1998 (63 FR 27408). Original deadline date for the submission of applications: October 1, 1998. New deadline date: October 19, 1998. New deadline for intergovernmental review: December 30, 1998.
—CFDA No. 84.324C Field Initiated Research Projects. Application notice published: August 13, 1998 (63 FR 43597). Original deadline date for the submission of applications: September 28, 1998. New deadline date: October 13, 1998. New deadline for intergovernmental review: December 14, 1998.
—CFDA No. 84.324M Model Demonstration Projects for Children with Disabilities. Application notice published: August 13, 1998 (63 FR 43597). Original deadline date for the submission of applications: October 5, 1998. New deadline date: October 19, 1998. New deadline for intergovernmental review: December 21, 1998.
—CFDA No. 84.324N Initial Career Awards. Application notice published: August 13, 1998 (63 FR 43597). Original deadline date for the submission of applications: September 28, 1998. New deadline date: October 13, 1998. New deadline for intergovernmental review: December 14, 1998.
—CFDA No. 84.324R Outreach Projects for Children with Disabilities. Application notice published: August 13, 1998 (63 FR 43597). Original deadline date for the submission of applications: October 5, 1998. New deadline date: October 19, 1998. New deadline for intergovernmental review: December 21, 1998.

Group II—National Institute on Disability and Rehabilitation Research, Office of Special Education and Rehabilitative Services

—CFDA No. 84.133F Research Fellowships. Application notice published: June 18, 1998 (63 FR 33500). Original deadline date for the submission of applications: September 30, 1998. New deadline date: October 16, 1998.
—CFDA No. 84.133G Field-Initiated Projects. Application notice published: June 18, 1998 (63 FR 33500). Original deadline date for the submission of applications: September 30, 1998. New deadline date: October 16, 1998.
—CFDA No. 84.133P Advanced Rehabilitation Research Training Projects. Application notice published: June 18, 1998 (63 FR 33500). Original deadline date for the submission of applications: September 30, 1998. New deadline date: October 16, 1998.

Group III—Office of Postsecondary Education

—CFDA No. 84.047M Upward Bound Math/Science Program. Application notice published: July 15, 1998 (63 FR 38249).

The notice is also on the HEP Website at: http://www.ed.gov/offices/OPE/OHEP/ubnotice.html

Original deadline date for the submission of applications: October 2, 1998. New deadline date: October 13, 1998.

Deadline for intergovernmental review: December 31, 1998.

—CFDA No. 84.217 Ronald E. McNair Postbaccalaureate Program. Application notice published: July 15, 1998 (63 FR 38248). The notice is also on the HEP Website at: http://www.ed.gov/offices/OPE/OHEP/mcnair.html

Original deadline date for the submission of applications: October 2, 1998. New deadline date: October 13, 1998.

Deadline for intergovernmental review: December 31, 1998.

If you are an individual with a disability, you may obtain a copy of this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the individual application notices.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free, at 1–888–293–6498.

You may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins, and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Dated: October 6, 1998.

Donald Rappaport,

Chief Financial and Chief Information Officer.

[FR Doc. 98–27259 Filed 10–7–98; 8:45 am]

BILLING CODE 4000–01–P

Reader Aids

Federal Register

Vol. 63, No. 195

Thursday, October 8, 1998

CUSTOMER SERVICE AND INFORMATION

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service that delivers information about recently enacted Public Laws. To subscribe, send E-mail to

listproc@lucky.fed.gov

with the text message:

subscribe publaws-l <firstname> <lastname>

Use listproc@lucky.fed.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries at that address.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATES, OCTOBER

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT OCTOBER 8, 1998

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Atlantic swordfish fishery; published 9-29-98

ENERGY DEPARTMENT

Personnel assurance program:

DOE and DOE contractor employees assigned nuclear explosive duties at DOE facilities; procedures and standards; published 9-8-98

Sales:

Strategic petroleum reserve, price competitive sale; standard sales provisions; published 10-8-98

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Consumer products; energy conservation program:

Electric cooktops, self-cleaning ovens, and microwave ovens; energy conservation standards; published 9-8-98

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Pennsylvania; published 9-8-98

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Glyphosate; published 10-8-98

Sethoxydim; published 10-8-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; published 9-3-98

British Aerospace; published 9-3-98

McDonnell Douglas; published 9-3-98

Pratt & Whitney Canada; published 10-8-98

Class D airspace; published 7-7-98

Class D and Class E airspace; published 8-14-98

Class D and Class E airspace; correction and effective date confirmed; published 7-30-98

Class D and E airspace; published 5-19-98

Class E airspace; published 6-9-98

Class E airspace; correction; published 9-3-98

Gulf of Mexico low offshore airspace area; published 9-21-98

IFR altitudes; published 9-2-98

Jet routes, VOR Federal airways, and colored Federal airways; published 7-23-98

Restricted areas; published 9-2-98

VOR Federal airways; published 7-22-98

TRANSPORTATION DEPARTMENT

Federal Railroad Administration

Track safety standards:

Technical amendments; published 10-8-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Potatoes (Irish) grown in—

Colorado; comments due by 10-13-98; published 8-11-98

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Interstate transportation of animals and animal products (quarantine):

Tuberculosis in cattle and bison—

State and area classifications; comments due by 10-13-98; published 8-13-98

Plant-related quarantine, domestic:

Mediterranean fruit fly; comments due by 10-13-98; published 8-13-98

Mexican fruit fly; comments due by 10-13-98; published 8-14-98

Plant-related quarantine, foreign:

Grapefruit, lemons, and oranges from Argentina; comments due by 10-13-98; published 8-12-98

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Common crop insurance regulations; basic provisions; comments due by 10-13-98; published 9-30-98

Crop insurance regulations:

Cotton; comments due by 10-13-98; published 9-30-98

AGRICULTURE DEPARTMENT

Grain Inspection, Packers and Stockyards Administration

Grain standards:

Sorghum; comments due by 10-13-98; published 8-14-98

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands groundfish; comments due by 10-16-98; published 9-3-98

Pollock; comments due by 10-16-98; published 10-1-98

Magnuson-Stevens Act provisions—

Northeastern United States; domestic fisheries; exempted fishing permit application to conduct experimental fishing; comments due by 10-16-98; published 10-1-98

Marine mammals:

Commercial fishing authorizations—

Harbor porpoise take reduction plan; comments due by 10-13-98; published 9-11-98

COMMODITY FUTURES TRADING COMMISSION

Over-the-counter derivatives; concept release; comments due by 10-13-98; published 9-17-98

DEFENSE DEPARTMENT

Acquisition regulations:

Defense items produced in United Kingdom; domestic source restrictions; waiver; comments due by 10-16-98; published 8-17-98

Federal Acquisition Regulation (FAR):

Business class airfare; comments due by 10-13-98; published 8-12-98

Recruitment costs principle; comments due by 10-13-98; published 8-12-98

Value engineering change proposals; comments due by 10-13-98; published 8-12-98

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control; new motor vehicles and engines:

Light-duty vehicles and trucks and heavy-duty engines—

Original equipment manufacturers and aftermarket conversion manufacturers; optional certification streamlining procedures; comments due by 10-13-98; published 9-11-98

Air quality implementation plans; approval and promulgation; various States:

Alabama; comments due by 10-14-98; published 9-14-98

California; comments due by 10-14-98; published 9-14-98

Pennsylvania; comments due by 10-16-98; published 9-16-98

Hazardous waste:

Identification and listing—

Petroleum refining process wastes; comments due by 10-13-98; published 8-13-98

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 10-15-98; published 9-15-98

Toxic substances:

Significant new uses—

Terpenes and terpenoids, etc.; comments due by 10-16-98; published 9-16-98

FARM CREDIT ADMINISTRATION

Farm credit system:

Organization and disclosure to shareholders—

Bank director compensation limits; comments due by 10-

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made

available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

S. 1695/P.L. 105–243

Sand Creek Massacre National Historic Site Study Act of 1998 (Oct. 6, 1998; 112 Stat. 1579)

Last List October 7, 1998

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, send E-mail to **listproc@lucky.fed.gov** with the text message:

subscribe PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new public laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.